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United States Department of Labor Seventy-Second Annual Report Fiscal Year 1984

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United States Department of Labor

Seventy-Second Annual Report

Fiscal Year 1984

Raymond J. Donovan, Secretary of Labor

United States Department of Labor

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Executive Summary

As the Nation's economy continued to improve and unemployment continued its steady decline in fiscal year 1984, the Department of Labor, under the leadership of Secretary of Labor Raymond J. Donovan, continued to improve the effectiveness of services delivered.

Legislation, regulatory changes, internal management improvements and new policy and program initiatives enhanced the Department's ability to reach and serve its constituencies. The year was highlighted by completion of the first full operating year of the landmark Job Training Partnership Act (JTPA), the 10th anniversary of the Employee Retirement Income Security Act (ERISA), and the 100th anniversary of the Bureau of Labor Statistics. All these events illustrate the key role this Department plays in ensuring the well-being of America's workers.

The Department continued to assist special groups of workers who were not fully sharing in the economic recovery. Among these groups were economically disadvantaged youths and adults, workers displaced from jobs by technology advances or economic changes in their industries, the growing ranks of women workers, and veterans.

Job Training Partnership Act

Under JTPA, business owners and executives serving on local Private Industry Councils directed training programs for jobless adults, young people, and displaced workers in almost 600 service delivery areas across the country.

JTPA is the first Federal employment and training program specifically designed to encourage private sector participation. Rather than being an income maintenance program, JTPA emphasizes training and utilizes the knowledge and expertise of the business men and women throughout the United States to design training which will provide necessary job skills to thousands of our Nation's unemployed. The program served more than 615,000 persons under title II and more than 96,000 persons under title III during a 9-month transition period from October 1983 through June 1984. Placement rates under both titles were considerably higher than those achieved under JTPA's predecessor, the Comprehensive Employment and Training Act. The great majority of JTPA enrollees who benefited in 1984 were economically disadvantaged.

Youth Employment Opportunity Wage

In an effort to gain an additional tool for combatting persistent and severe youth unemployment, the Administration proposed and strongly advocated enactment of the Youth Employment Opportunity Wage. The bill, which the Department estimated would create almost 400,000 new jobs for youth each summer, would allow employers to hire young people at a special minimum wage of $2.50 an hour during the months of May through September. The bill received broad-based support from such groups as the National Conference of Black Mayors, the National Association of Minority Contractors, the National Federation of Independent Businesses and the Printing Industries of America. The Department plans to build on this consensus and will seek the bill's passage during the next session of Congress.

Veterans

Also, a major effort was launched to relieve severe, long-term unemployment among Korean and Vietnam-era veterans with enactment of the Emergency Veterans' Job Training Act. Administering the new law in conjunction with the Veterans Administration, the Department conducted outreach activities to employers and veterans.

These efforts resulted in the location of 19,000 jobs for veterans during the year. Emphasis was renewed on other veterans' employment and training programs during the year, particularly those serving younger and disabled veterans.

Women Workers

With women entering the labor force at the rate of more than 1 million a year, the Department's Women's Bureau continued to address the unique problems of special groups, including economically disadvantaged and unskilled women unable to find jobs, women executives held back in their careers, and working mothers needing high-quality, affordable child care.

Specific Women's Bureau activities ranged from programs to improve training and employment opportunities for women to economic research initiatives and information sharing about women. For example, the Bureau held a series of 20 workshops around the country to promote understanding of JTPA's potential for improving women's economic status.

In its continuing effort to increase the availability of child-care services for working women, the Bureau worked with the White House Office on Private Sector Initiatives to encourage employers to provide or assist in child-care arrangements for employees; for the third year in a row, the Bureau provided funds for a Rockefeller Foundation project allowing community-based organizations to demonstrate effective ways of providing child care to low-income female household heads.

As part of its ongoing effort to promote young women's awareness of and preparation for careers in nontraditional occupations, the Bureau worked with public school personnel and other community representatives to institutionalize the concept of nontraditional career options in schools.

Other Bureau activities included programs, seminars, workshops, studies and technical assistance dealing with a wide range of issues affecting such groups as rural women, women offenders, displaced homemakers, dislocated women workers, women in high-technology occupations, and immigrant and refugee women.

Retirement and Pension Benefits

As ERISA marked its 10th anniversary, the Department took a number of actions to strengthen and improve its administration of this vital law which benefits all Americans who rely on the financial security offered by private pension and welfare benefit plans.

Numerous ERISA regulatory improvements were proposed and/or completed during the year. ERISA enforcement was increased, resulting in recovery of some $92 million for employee benefit plans, 56 percent more than was recovered in fiscal 1983.

A major pension victory was achieved for women during the year with President Reagan's signing of the Administration-supported Retirement Equity Act. The new law significantly improves the vesting of women's pension rights in private pension plans and ensures their right to benefits received by a spouse.

In recognition of the importance of the Nation's multibillion-dollar private pension system, the Secretary established the National Pension Forum to review the Department's effectiveness in carrying out ERISA and to recommend improvements. He also elevated the Office of Pension and Welfare Benefit Programs (OPWBP), which administers ERISA, and made it part of the Office of the Secretary; it had formerly been part of the Labor-Management Services Administration (LMSA).

Reorganization

To enhance the role of another key Department program that had been part of LMSA, the Office of Labor-Management Cooperation was renamed the Bureau of Labor-Management Relations and Cooperative Programs and assigned to report to the Office of the Under Secretary.

The remaining LMSA unit, renamed the Office of Labor-Management Standards, strengthened the Department's commitment to preventing improper or corrupt labor practices by almost doubling the number of convictions and pretrial settlements for Labor-Management Reporting and Disclosure Act violations and by boosting the number of embezzlement investigations and compliance audits.

Enforcement was also vigorously pursued in other Department programs.

Safety and Health

The Occupational Safety and Health Administration (OSHA) conducted more than 70,000 inspections, the highest total since 1976; more than 85 percent of these inspections were targeted on high-hazard industries and worksites.

The Mine Safety and Health Administration (MSHA) conducted more than 77,000 coal mine inspections and more than 13,000 metal and nonmetal mine inspections. MSHA inspectors also made numerous special mine visits to explore the reason for increases in certain types of fatal accidents and to discuss safe practices with mine labor and management.

Compliance Actions

The Employment Standards Administration's (ESA) Wage and Hour Division conducted more than 64,000 compliance actions during the year; more than 44,000 of these were based on employee complaints under Federal minimum wage, overtime, child labor and other wage and hour standards. ESA's Office of Federal Contract Compliance Programs conducted a record number of compliance reviews during the year.

ESA laid the groundwork in fiscal 1984 for a major rule change that would allow employees in the knitted outerwear industry the freedom to work in their homes while still enabling the Department to monitor wage and hour law compliance.

Regulatory Actions

The Department's enforcement agencies took a number of significant regulatory actions in fiscal 1984.

OSHA issued several final standards to protect workers, including new rules governing hazard communication, exposure to ethylene oxide and servicing of single- and multi-piece rim wheels. An emergency temporary standard to lower asbestos exposure was issued in November 1983 but was later stayed by court action;

meanwhile, OSHA proposed a permanent revised rule for asbestos. Other OSHA standards proposed during the year covered sanitation facilities for farm workers, oil and gas well drilling and servicing, crane and derrick hoisting, accident prevention tags, and safety testing and certification.

MSHA continued to review mine safety and health rules and proposed or issued new standards to improve worker protections. A new final rule updated and consolidated standards for wire ropes used to hoist both miners and materials. Major reviews continued on eight groups of metal and nonmetal mining standards and underground coal mine regulations. These reviews were aimed at updating and clarifying regulations, closing gaps and removing unnecessarily burdensome provisions. Among others, proposed rules were published for fire protection, machinery and equipment, and ground control. As the fiscal year ended, final rules were being prepared on these subjects. Proposed rules were being prepared on loading, hauling and dumping; gassy mines, electricity and air quality.

Labor-Management Relations

In all of the Department's regulatory and enforcement programs, efforts focused on working more closely and cooperatively with labor and management to achieve voluntary compliance. These efforts have consistently helped the Department obtain redress for workers and often resulted in swift correction of violations without costly and time-consuming litigation. In the past few years, the Department's efforts to reduce its adversarial relationships with employers and to foster greater labor-management-government cooperation have also contributed to an improved labor-management climate.

For example, as OSHA has shifted from a confrontational to a more cooperative enforcement approach that emphasizes training, consultation and self-correction of hazards, the safety record of American workplaces has improved dramatically. The latest figures show that injury and illness rates declined from 9.5 per 100 full-time workers in 1979 to 7.6 in 1983, the lowest level ever recorded. Contested citations have also declined dramatically. In fiscal year 1980, about 22 percent of all OSHA inspections in which citations were issued were contested. By 1984, the contest rate had dropped to only 2.5 percent.

A similar approach by MSHA in conjunction with mine labor and management coincided with an all-time low of 131 mining fatalities in fiscal 1983 and 163 in fiscal 1984—far below fatality figures of earlier years even though mine employment and production have been on the rise.

Cooperation among parties in the private sector is particularly vital in allowing the Department to target its limited inspection resources on the most serious problems facing workers. Our experience demonstrates that when we succeed in attaining a mutual commitment to compliance from labor and management, we significantly increase the likelihood of compliance and achieve better protection for workers at less cost to taxpayers.

The concept of establishing public-private partnerships to achieve public policy objectives, such as those demonstrated under JTPA and the Department's enforcement programs in fiscal 1984, will become increasingly important as the Reagan Administration continues to improve government efficiency.

Management Efficiency

The Department made major contributions to the Administration's effort to reduce Federal spending in fiscal 1984 through cost-saving management improvements, space and personnel reductions and an active internal and external audit and investigation program conducted by the Office of Inspector General (OIG). Continued progress was made in reducing waste, fraud and abuse in Federal programs.

For example, new case management procedures were used to eliminate waste, fraud and abuse in federally administered workers' compensation programs. The Administration supported amendments to the Longshoremen's and Harbor Workers' Compensation Act, which provided for debarment of medical providers and other penalties in instances of fraud.

In addition to working with the Justice Department in conducting labor racketeering investigations that brought 123 convictions and 98 indictments in fiscal 1984, the OIG helped obtain 258 convictions and 438 indictments for various types of fraud in the Department's own operations and programs.

Both the Department's Employees' Compensation Appeals Board and Benefits Review Board reported substantial increases in efficiency and productivity in handling a large volume of workers' compensation cases during the year.

International Labor Affairs

Also, through its Bureau of International Labor Affairs (ILAB), the Department was involved in the broader task of assuring that the interests of American workers are addressed in U.S. foreign affairs. In addition to entering into cooperative agreements with or providing technical assistance to other countries, ILAB participated in numerous international activities and discussions dealing with foreign trade and economic policy. The bureau also continued to exert leadership on behalf of the United States in international organizations devoted to economic and human rights issues affecting labor.

Conclusion

As has been the case since its creation as a separate Cabinet-level agency in 1913, the Department of Labor this year continued "to foster, promote, and develop the welfare of the wage earners of the United States," as required by its original enabling legislation. During 1984, emphasis was placed on the Reagan Administration's goals for delivering better and more cost-effective services to the Department's varied constituencies. Our task for the future will be to build on these accomplishments while continuing to serve the millions of wage earners of our Nation.

Employment and Training Administration

Fiscal year 1984 marked the first year of ETA's administration of the new Job Training Partnership Act (JTPA). This new legislation went into effect in October 1983 and replaced the Comprehensive Employment and Training Act (CETA). JTPA builds on the experience of two decades of training and employment programs but makes a number of fundamental changes in the philosophy as well as the approaches to assisting the unemployed and economically disadvantaged. The principal differences that distinguish JTPA from earlier employment and training legislation are the following:

- JTPA is sharply focused on training, with a legislatively mandated requirement that at least 70 percent of all funds be used for this purpose.
- JTPA establishes a public/private partnership between government and the private sector by providing a major role for business in the direction and operation of JTPA programs through the establishment of Private Industry Councils (PIC's) at the local level and through State Job Training Coordinating Councils (SJTCC) at the State level.
- JTPA is a performance driven program, with clearly defined performance standards for measuring the effectiveness of programs and with provisions for sanctions as well as incentives to improve program performance.
- JTPA shifts primary responsibility and authority for the design and administration of the delivery system, a role that had historically rested with the Federal Government, to the Governors and the States.

The initiation of the new program in October 1983 followed a transition year of intensive preparation at all levels of government. At the State level, JTPA necessitated the building of a new administrative structure to carry out the many oversight responsibilities shifted from the Federal level including designating service delivery areas within each State, insuring the financial integrity of programs within their jurisdiction, providing reporting systems and technical assistance to local programs. At the local level, the chief elected official(s) in each of the designated areas appointed members of the Private Industry Councils (PIC's). These councils, led by members of the local business community, were to share, with local government, responsibility for planning and monitoring Service Delivery Areas (SDA) programs.

At the Federal level, the new structure under JTPA required a substantial restructuring and reorientation of the Employment and Training Administration to reflect the shift of responsibilities to the States and to carry out the new responsibilities assigned to the Secretary of Labor under JTPA. The latter included, in addition to guiding the development of the overall JTPA system, establishing a system of performance standards, providing for an evaluation system to assess the new program, and putting in place the necessary fiscal and financial controls to assure the integrity of the new structure.

The major training programs under JTPA are authorized under three titles:

- Title II provides for a system of block grants to States to support local training and employment programs for the economically disadvantaged. States are responsible for further allocating the funds to service delivery areas in their States and for overseeing the planning and operation of local programs. Part B of this title also provides for a summer youth employment and training program.
- Title III of JTPA provides for a new program targeted on dislocated workers—experienced workers displaced from their regular employment by plant closings, technological change, foreign competition or other major economic disturbances.
- Title IV provides for a limited number of activities to be continued under Federal direction. Generally, these are programs that involve interstate activities or are special responsibilities of the Federal Government. These include the Job Corps, Indian and Native American programs, Migrant and Seasonal Farmworker programs, and various support activities such as evaluation and technical assistance.

Among the major changes under JTPA is a shift to forward funding of training and employment programs. To initiate this process the fiscal year 1984 appropriation provided funding for 21 months, with $2.9 billion to support a transition period (TP) of 9 months running from October 1, 1983 to June 30, 1984, and $3.6 billion to support the first full program year (PY) covering the period of July 1, 1984 through June 30, 1985.

Job Training Partnership Act State and Local Programs[1]

Title IIA provides for a system of block grants to States based on relative unemployment and number of disadvantaged persons. The Governor makes further allocations to designated service delivery areas, (SDA's), which generally are communities of at least

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[1] Data on total JTPA participants for the 9-month transition period are from the JTPA Annual Status Reports. Data on characteristics for the transition period are from the Job Training Longitudinal Survey (JTLS).

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200,000 population or as determined by the Governor. In the transition period, there were 595 designated SDA's which received a total of $1.4 billion for the 9-month period to fund the basic training program under title IIA. For program year 1984, $1.9 billion has been appropriated for the title IIA program.

In the basic title IIA programs, over 615,000 persons were served during the 9-month transition period. Over 73 percent of the funds expended went to the support of training activities, exceeding the JTPA requirement that at least 70 percent of the funds be used for training with no more than 30 percent used for administration and support services.

The major types of services provided to participants in JTPA are classroom training, on-the-job training and job search assistance. Through the three quarters of the transition period, over 60 percent of all participants were in classroom or on-the-job training with the remainder in job search assistance programs and other services.

Data from the transition period under the new program indicate that of new participants entering JTPA: 94 percent were economically disadvantaged (the statute requires that 90 percent of those served be economically disadvantaged); 46 percent were members of minority groups, and 41 percent were receiving public assistance.

Over 390,000 participants terminated from the basic program during the transition period. Of this number, 64 percent entered employment with an average wage of $4.53 per hour.

Dislocated Worker Program

Title III of JTPA authorized a new program to retrain experienced workers displaced from their regular jobs. Over $94 million was authorized for the dislocated worker program for the transition period. For the full 1984 program year, $223 million has been appropriated. Seventy-five percent of the funds are allocated to the States for distribution by the Governors to address problems of dislocation within their States. The remaining 25 percent is reserved for distribution by the Secretary to the States to address special problems and needs. With certain exceptions, where unemployment exceeds the national average, States are required to match the Federal grant with non-Federal contributions.

Dislocated worker programs are designed to provide on-the-job training, classroom training, job placement, and other necessary support services to enable dislocated workers to find new jobs, primarily in the private sector. Services may also be provided before lay-off when there is notice of a plant closing.

Total enrollments under title III through June 30, 1984 (the end of the transition period), numbered over 96,000. Of over 50,000 participants that terminated from the program, 72 percent entered employment. Data on the characteristics of the terminees indicate that 89 percent of the participants were unemployed at the time of enrollment and 45 percent were receiving unemployment compensation.

Youth Programs

Title IIB provides for a Summer Youth Employment Program (SYEP). This program gives economically disadvantaged youth employment opportunities and related training and educational services during the summer months. States and local service delivery areas received a total of $824.6 million for the summer of 1984 and provided over 740,000 summer jobs for disadvantaged youth.

The Job Corps, authorized by title IV, provides a wide range of training, education, and support services, primarily in residential centers, for disadvantaged youth ages 16 to 21. During the transition period, the Job Corps operated 107 training centers at a cost of $460 million. The program is being funded at $599 million for program year 1984. These centers provided 30,500 service years and served approximately 42,000 new enrollees during the 9-month period.

During the period, ETA implemented formal performance standards for the Job Corps centers and established a reporting system to assess center performance against standards. In addition, changes in vocational offerings were begun on a center-by-center basis in accordance with the findings of the comprehensive vocational review conducted in the preceding fiscal year. Other measures to enhance the effectiveness of the program included: initiation of a study to determine the feasibility of automated linkages between Job Corps centers, Regional Offices and the National Office; a major initiative focused on revising, updating and consolidating all Job Corps issuances; and a continuing effort to improve the cost-effectiveness of the program.

Special Targeted Programs

Under title IV of JTPA, ETA continued to have responsibility for administering several national programs serving groups that the legislation identified as in need of special services because of the particular disadvantages they encounter in the labor market.

Under JTPA, the Indian and Native American Employment and Training Program continued to support a wide variety of training and employment services through grants to Indian Tribes, other

Native American communities and various related organizations. During the transition period, approximately 20,000 Indians and Native Americans were served at a cost of $47 million; program year 1984 funding is at the $62.2 million level. In terms of services, 34 percent received classroom training, 9 percent received on-the-job training, 25 percent were in work experience or community service employment, 2 percent were in tryout employment and 30 percent received various supportive services.

The Migrant and Seasonal Farmworker Program provides services to migrants and seasonal farmworkers, ranging from job training to emergency assistance, health and medical care, and nutritional services. During the transition period the program served an estimated 30,200 persons at a cost of $43.5 million. Program year 1984 funding is at the $65.5 million level. Over 6,400 received classroom training, 4,400 were placed in on-the-job training and 1,400 were placed in work experience positions.

Older Americans Act

The Senior Community Service Employment Program (SCSEP), authorized by title V of the Older Americans Act, provides subsidized part-time jobs in community service activities for low-income persons 55 or older. Grants are given to States and national organizations to develop part-time jobs which typically are for an average of 20 hours per week and are located in such facilities as hospitals, senior citizens centers, schools, and other public institutions. In fiscal 1984, the SCSEP provided employment for over 62,000 older persons through an appropriation of $317.3 million.

Apprenticeship

Among ETA's major responsibilities is the promotion and fostering of an effective national apprenticeship system. This activity is carried out in cooperation with State Apprenticeship Agencies by providing technical assistance and advisory services to employers, employer associations and labor organizations.

During fiscal 1984, over 325,000 apprentices received training and almost 72,000 new apprentices entered training. Female apprentices accounted for 7 percent of the total and 19 percent were members of minority groups. For several years, ETA has made special efforts, in cooperation with the Defense Department, to develop and expand apprenticeship in the Armed Services. In fiscal 1984, approximately 37,000 uniformed personnel were enrolled in apprenticeship programs conducted by the Army, Navy, and the Marine Corps. The Defense Department also sponsors apprenticeship programs for its civilian employees.

During the year, there were 53,000 apprenticeship programs registered with ETA or the 31 State apprenticeship agencies, including 2,000 new programs developed during the year. Ten new occupations were recognized as apprenticeable, bringing the total to 745. During the period, Federal staff conducted 1,544 compliance reviews of apprenticeship programs to assure compliance with the provisions of equal employment opportunity in apprenticeship regulations.

Efforts to improve the quality and effectiveness of apprenticeship programs were continued during the year. Almost 1,900 quality assessments were made during the year. Based on the results of these assessments, apprenticeship field staff assisted program sponsors in implementing such quality improvements as performance based training, revised and updated work processes, and improved related instructions.

Employment Service

Title V of JTPA amended the Wagner-Peyser Act of 1933, which established the United States Employment Service (USES) and a national system of State public employment service offices.

The Wagner-Peyser Act provides that States, through their legislature, designate the agency which will obtain the benefit of Wagner-Peyser appropriations and cooperate with the USES. The JTPA amendments strengthen the relationship between local public employment service activities and local training programs under JTPA and put the employment service on the same program year schedule as provided for the basic JTPA programs. Among the changes made by the amendments are the following:

- Basic ES funding is allocated among the States using a statutory formula based on each State's relative share of the labor force and the unemployed.
- Provision is made for the involvement of local SDA's and Private Industry Councils in the planning of local ES programs.
- Set-asides from the basic allocation are provided for the use of the Governor for performance incentives, providing for services to groups with special needs, and for costs of exemplary programs.
- States are given considerable latitude in deciding the levels and mix of services to be provided with the basic Wagner-Peyser grants. Activities of national interest, such as labor certification, occupational aptitude test development, and the

affected workers. An exception to this deadline is provided for older workers: an affected worker who was at least age 60 prior to October 1, 1984, has his entitlement continue until he reaches age 65. Since its inception as of May 1977, $93.1 million has been paid to affected workers in weekly layoff benefits and severance payments. For fiscal 1984, preliminary data indicate the affected workers were paid benefits for 23,821 weeks for a total of $6.1 million. Severance payments totaling $1.4 million were made to 68 workers. Relocation and job search allowances for 16 workers amounted to $25,855.

Under the Disaster Unemployment Assistance Program (DUA) during the fiscal year, 23 major disasters were declared in 19 States. Some 23,190 individuals received DUA benefits during the 10-month period ending July 31, 1984. Benefits totaled $15.0 million, up from $3.1 million in the same period of fiscal year 1983.

Trade Adjustment Assistance

Under the Trade Act of 1974, ETA conducts fact finding investigations on worker petitions for trade adjustment assistance (TAA) benefits. Trade-impacted workers certified as eligible to apply for TAA may receive additional weeks of unemployment benefits, training, counseling, job search and relocation payments. The TAA provisions were extended through September 30, 1985, by the International Coffee Agreement Amendments Act of 1983. The Deficit Reduction Act of 1984 further amended the Trade Act, effective July 18, 1984, by increasing the maximum amount for job search and relocation allowances from $600 to $800, and by allowing for workers whose entry into training was delayed for administrative reasons to collect 26 additional weeks of trade readjustment allowances (TRA).

During fiscal 1984 the backlog of cases was reduced, resulting in determinations averaging less than 4 months. At the end of fiscal 1984 the case backlog stood at 151—a reduction of 72 percent as compared to the previous fiscal year. Four hundred and thirty-three (433) new worker TAA petitions were filed with the Department during fiscal 1984.

About 46,200 workers were certified as eligible to receive TAA benefits, with the majority of workers located in steel, footwear, and electronics industries, compared to about 155,000 workers mostly in the steel, automobile and apparel industries in the previous fiscal year. TAA data for the first 9 months of fiscal 1984 show that 12,303 workers adversely affected by imports received TRA first payments. A total of $28.86 million was paid in TRA benefits during the same period. In addition, 557 workers received a total of $125 thousand in job search allowances, and

Efforts to expand and improve internal security in the UI programs continued to receive attention on the part of all SESA's. In addition to the normal duties of preventing and detecting employee fraud, many SESA's continued to complete their risk analysis of UI operations. Such analyses identify vulnerabilities in system performance and establish safeguards to eliminate or reduce threats to program operation. New initiatives for fiscal 1985 will be focused on the future direction/policy for internal security, the need for SESA's staff training and revised reporting procedure which takes into account savings of funds resulting from setting up new controls as well as actual dollars involved from the internal fraud cases uncovered by SESA's internal security staff.

A major element in the comprehensive program for control of improper payment continues to be the Random Audit Program (RAP) which was expanded during the fiscal year and is now operating in 46 States. RAP was designed to produce valid rates of detectable overpayments or improper payments on a statewide basis and serve as a management tool to identify problems and foster corrective action. Random Audit will be replaced by an expanded UI Quality Control (QC) program in fiscal 1985.

Under this more comprehensive approach, a QC system will be phased in over a 3-year period. The initial design and policy decisions were completed and preliminary activities for implementation in fiscal 1985 have been initiated. The QC system builds on experience gained under Random Audit and studies related to needed improvements in the UI revenue function. Once implemented, QC will also form the basis for other program improvements including the elimination of overlapping functions, streamlining of administrative requirements and increased emphasis on the quality of program operations.

In the early months of the fiscal year, continuing high levels of benefit payments coupled with the normal seasonal decline in tax collections resulting from cutoff in taxable wages as the tax year ends, resulted in continued heavy State borrowing from the Federal Unemployment Account (loan fund). As of January 31, 1984, loan indebtedness of 26 States reached a total of $14 billion—the highest aggregate total of unpaid loans to date. Since that time, as the economy has improved and revisions in State financing have begun to take hold, the need for additional loans has diminished and substantial repayments have been made by some States. As of September 18, 1984, the aggregate total indebtedness of 21 States had dropped to $9.6 billion, a reduction of 31.4 percent in a period of less than 8 months.

Under the Redwood Employee Protection Program, the end of fiscal 1984 marked the ending of weekly layoff payments to ment Security Agencies (SESA's), a substantial reduction from the 30.3 million filed in 1982. Weeks of unemployment claimed included 145 million weeks of total unemployment and 339 million weeks of partial unemployment. A total of $18.7 billion was paid to 8.9 million claimants.

Major legislation affecting the UI system enacted during the year included: The Federal Supplemental Compensation Amendments of 1983 which extended the Federal Supplemental Compensation (FSC) program to March 31, 1985; amendments to title III and title XI of the Social Security Act, (the Deficit Reduction Act of 1984) which required that each State establish an income and eligibility verification system for the exchange of eligibility information among federally assisted entitlement programs including Unemployment Insurance (UI). Requirements for the system include the establishment of a system of quarterly wage reports from employers or approval by the Secretary of an alternative system, by no later than September 30, 1988. The Act also included provisions to broaden the UI tax base by including tips under the Federal Unemployment Tax Act.

In response to a congressional mandate contained in the Federal Supplemental Compensation Amendments of 1983, the Department submitted two reports to the Congress in early 1984 on the feasibility of substate area triggers in unemployment compensation and on the feasibility of determining whether claimants are structurally unemployed. Conclusions of the reports were the following:

1. Use of any proposed area triggers would be inconsistent with present concepts and administrative capabilities of the UI system.
2. There are no present data indicating whether individuals are structurally unemployed that are available on other than a retroactive basis, after the period of unemployment has expired.

Ensuring the integrity of the UI program continues to receive high priority by SESA's under the Administration's efforts for the reduction of fraud, waste, and abuse in such programs. In an effort to increase the cost-effectiveness of systems used by SESA's to detect and recover benefit overpayments, additional funds have been made available to SESA's by ETA to help cover the implementation costs of the model crossmatch and recovery systems. During fiscal 1984, these allocations included: $350,000 for model crossmatch in eight States; and $911,000 for model recovery systems in 19 States. Data for the first two quarters of fiscal 1984 indicate that the numbers and amounts of overpayments detected will reach all-time highs for a 12-month period. The amount of overpayments recovered should also represent new highs.

wide and the adoption by more States of automated selection criteria have reduced turn-around time for the system. As a result, weekly listings of job orders increased from 2,700 to over 4,000 in fiscal 1984. Pilot applications of telecommunications techniques and development of an automated referral and placement tracking process were initiated during the year.

In fiscal 1984, a significant breakthrough was achieved in the field of occupational aptitude testing and test development. A new method, piloted in one State, and initiated in others, has demonstrated that unique interpretation methods for General Aptitude Testing can identify the most able applicants for virtually all jobs.

Work Incentive Program

The Work Incentive (WIN) Program provides training and employment services to applicants/recipients of Aid to Families with Dependent Children (AFDC). WIN is administered jointly by the Department of Labor and the Department of Health and Human Services (HHS). However, under the Omnibus Budget Reconciliation Act of 1981, States were given the option of conducting a demonstration program under which the WIN program could be administered by solely State welfare agencies under the direction of HHS. Some 20 States have elected to operate WIN demonstration programs.

Participants in WIN are from groups that experience particular disadvantages in the labor market. In the first three quarters of fiscal 1984, 71 percent of WIN participants were women; over half were minorities; and over half had less than a high school education.

During the first three quarters of the fiscal year, regular WIN programs in the 34 States remaining under joint DOL/HHS administration registered nearly 434,000 persons and assisted more than 123,000 registrants to enter unsubsidized employment.

Of those placed in jobs, 55 percent earned enough at entry to leave the AFDC rolls; the remainder continued to receive assistance but at a reduced level. For the 34 States under the joint program, the reduction in welfare grants as a result of the WIN program is estimated at $252.1 million for the 9-month period. This estimate does not include savings from reductions in food stamps or medicaid.

Unemployment Compensation

During the 12-month period of calendar 1983, 22.8 million initial claims for unemployment benefits were filed with State Employ-

Targeted Job Tax Credit program are funded through contracts or reimbursable agreements.

During the first three quarters of fiscal 1984, almost 8.5 million persons submitted full job applications at the State-operated public employment service offices, and 5.2 million job openings were listed by employers. Of the jobs listed, 3.7 million (or 71 percent) were filled

During the year, work was undertaken on updating the *Dictionary of Occupational Titles* (DOT), a basic reference for many employers, schools, and other personnel-related activities. Four additional Occupational Analysis Field Centers were established to supplement the North Carolina Field Center. Selection of staff for the new centers was completed and training in basic procedures for the collection of occupational information was begun. Initial emphasis is on occupations in high technology industries and on occupations impacted by technological change.

The employment service continued to have special responsibilities for administering the Targeted Jobs Tax Credit (TJTC) Program. TJTC is an elective income tax credit that can be applied to the wages private employers pay to new employees in certain target groups. Employers hiring a member of the specified groups must obtain certification from a public employment service office in order to qualify for the credit. During the first three quarters of fiscal 1984, public employment service offices issued 396,000 certifications, an increase of 46 percent over the same period in fiscal 1983. The program, originally scheduled to expire at the end of 1984, has been extended through December 1985, by the Deficit Reduction Act of 1984.

The U.S. Employment Service and its affiliated State agencies administer a labor certification program required by the Immigration and Nationality Act. In fiscal 1984, approximately 31,000 applications for permanent and temporary labor certifications were processed with 25,000 applications certified for approval. In calendar 1983, approximately 19,500 applications for jobs in temporary agricultural work, to be filled by foreign workers, were certified.

The Employers' National Job Service Committee (ENJSC) and more than 1,600 affiliated Job Service Employer Committees (JSEC) provided private sector leadership to assist the public employment service in establishing the new relationships authorized by JTPA. Over 20,000 employers participate in this volunteer program to improve services to employers and applicants by the State public employment service agencies.

Additional improvements were made to the Interstate Job Bank, building on efforts begun in fiscal 1983. The computer tape-to-tape exchange of information on hard-to-fill job orders nation-

1,782 workers received $1.8 million in job relocation allowances. Over $13.4 million was provided for training programs during the 9-month period.

Under a separate provision of the Trade Act of 1974, industries may petition the U.S. International Trade Commission for import relief. When this occurs, the Secretary of Labor conducts a study and reports his findings to the President within 15 days after the Commission makes its report. The Secretary's report addresses the number of workers in the domestic industry producing the like or directly competitive article who have been or are likely to be certified as eligible for TAA, and the extent to which the adjustment of such workers to import competition may be facilitated through the use of existing Department programs. Such reports and the accompanying studies are known as "escape clause" investigations. During fiscal 1984 the Department completed studies on the ferrosilicone, stainless steel flatware, footwear, tuna fish, copper and steel industries.

Financial Management

In fiscal 1984, ETA continued the implementation of the electronic transfer of funds to grantees using the "Letter of Credit-Treasury Financial Communications System" (LOC-TFCS). All State Job Training Partnership Act (JTPA) program funds and State Employment Security Agency program funds were disbursed to the States electronically using LOC-TFCS. In addition, approximately 75 percent of the Migrant and Seasonal Farmworker programs, 95 percent of the Older Worker programs and 85 percent of the Native American programs receive funding through LOC-TFCS. Because of LOC-TFCS implementation, the average time between drawdowns from JTPA programs was reduced from 17.8 days in fiscal 1983 to 5.6 days in fiscal 1984. This resulted in a savings in interest payments of $10.7 million. All ETA grantees with over $25,000 in grant funding per month are expected to receive funding through LOC-TFCS by the end of the first quarter of fiscal 1985. With the electronic fund transfer system in place, the problem of excess cash drawdowns by grantees was significantly reduced.

In fiscal 1984, ETA continued refinement of its automated cash flow management review system. Through September 30, 1984, over $73.1 million dollars had been returned to the Department of the Treasury as a result of ETA's cash flow management review system and subsequent followup. Seventeen million dollars in debt collection cash was returned and over $56 million in cash management/closeout management cash was returned to the Treasury. In addition to the above, ETA developed and initiated an on-site cash management compliance review process. Instructions were developed and provided to State agencies administering JTPA to illustrate the type of on-site cash management compliance monitoring review that would take place and the degree that the same process could be used at the local SDA level. During fiscal 1984, 91 of 114 State Employment Security Agencies and JTPA State sponsors were monitored to insure that they had implemented satisfactory cash management practices. The average amount of excess cash found in JTPA programs averaged $182,252 per day with an average of 2.0 days of excess cash holding. Similar reviews of State Employment Security Agencies indicated an average amount of excess cash on hand per agency to be $341,548 and the average number of days of excess cash per SESA to be 2.3. Both findings are well within the Department of the Treasury guidance of no more than 3 days of excess cash. In fiscal 1984, space reduction savings totaled $529,000, telecommunications savings totaled $542,000 and some $423,000 in savings was realized through realignment of the grade structure in ETA.

During fiscal 1984, a comprehensive review of mandated ETA reporting on the part of grantees was made in conjunction with the preparation of the ETA Information Collection Budget (ICB). As a result, ETA established, with the concurrence of OMB, a goal of reducing the number of burden hours involved in reporting by 4 percent or 133,868 burden hours. The actual burden hour reduction for fiscal 1984 was 595,645 or more than double the goal and resulted in savings of almost $3 million dollars to grantees.

Program Integrity and Debt Management

A basic objective of ETA is the resolution of all outstanding audits and the elimination of backlogged contract/grant closeout activity. During fiscal 1984 this objective focused on the accomplishment of the phasedown and closeout of the CETA program. Approximately 650 audits directly related to the CETA phasedown and closeout effort were resolved in fiscal 1984.

With respect to closeout activities, more than 1,400 CETA Prime Sponsor Annual Plan subparts were settled and more than 200 Prime Sponsor Master Plans were terminated. At the end of the fiscal year, 811 other contracts or grants were pending closeout. These contracts or grants could not be closed for reasons such as pending debt collection actions, appeals of contract/grant officer determinations, unresolved audit issues, and the pending establishment of indirect cost rates.

During the fiscal year ETA collected approximately $21 million of the debt established through the audit resolution process. More than $17 million of this amount were cash collections.

Also, more than $8 million of debt was referred to the Department of Justice and the General Accounting Office for litigation or termination. All ETA programs and functions were assessed in fiscal 1984 to determine their vulnerability to waste, fraud and abuse in accordance with the Federal Managers' Financial Integrity Act of 1982. Twenty-one internal control reviews and surveys of ETA activities and functions were conducted. Over 500 preaward reviews were completed on potential ETA contractors or grantees. In addition, investigations were conducted to determine the validity of allegations received through the ETA Incident Report system and the GAO and OIG Hotline systems. Appropriate corrective action was instituted where warranted.

Policy and Planning

In fiscal 1984, ETA's policy and planning activities concentrated on the Federal Government's responsibility to provide broad policy guidance for activities conducted under the Job Training Partnership Act (JTPA) as well as the Federal Government's responsibilities for oversight of the new employment and training legislation.

At the start of the fiscal year the emphasis was on policy questions that arose with JTPA's actual operational startup in October 1983. Briefing sessions were held for business, government and civic leaders to clarify policies and to discuss issues of common concern. Position papers were designed. Guidance was prepared to help the various JTPA "partners" carry out their new responsibilities. In addition, the required JTPA regulatory process was completed: proposed regulations were screened for consistency with the law's principles and published in time to meet legislated timeframes.

With the JTPA operational phase well under way, attention centered on the Federal Government's oversight role, a major responsibility under JTPA. Early implementation studies and surveys of JTPA operations were analyzed to determine progress in meeting the mandates and expectations for the new legislation. Results were shared with the public in publications distributed through regular public information channels as well as with the Cabinet at special meetings of the President's Cabinet Council and with the Congress.

In addition to carrying out congressional-related JTPA responsibilities, ETA continued to provide weekly updates for DOL managers on congressional activities.

ETA participated in congressional oversight hearings on the JTPA implementation, the Job Corps and title V of the Older Americans Act and developed the Department's position on such legislative proposals as the Unemployment Insurance (UI) and the Targeted Jobs Tax Credit (TJTC) program in the Tax Reform/Deficit Reduction Act (PL 98-369) and amendments to trade adjustment assistance provisions in the Trade Act.

In addition:

- A major review was completed of the National Plan of Action related to responsibilities of the Human Resources Working Group, chaired by ETA, under the Nation's Emergency Mobilization Preparedness Program.
- The annual Employment and Training Report of the Secretary (ETROS) was submitted to Congress as required by JTPA.
- An operational planning system for developing and tracking ETA's goals and objectives was developed and implemented.

Performance and Standards Management and Evaluation

The issuance of an initial system of performance standards and the carrying out of surveys to assess early JTPA implementation and impact were important fiscal 1984 activities.

ETA developed and issued performance standards for titles IIA and III, as well as Job Corps, Indian and Farmworker programs, and the Employment Service. Each of these sets of standards was developed through an advisory committee process which provided for the input and advice of the user community and experts who could support this development effort.

ETA also provided training and assistance in the implementation of the standards through the issuance of technical assistance guides and the provision of specific training sessions for State and local staff, with principal focus on title IIA.

Specific accomplishments in fiscal 1984 were the following:

- The development and issuance of seven standards for program year 1984. These included four adult and three youth standards.
- The development and issuance of the Secretary's parameters within which Governors may adjust the seven national standards based on such local conditions as economic factors.
- The development and issuance of an optional methodology to assist Governors in adjusting local standards.

During the fiscal year additional work was undertaken to refine initial standards and to develop the remaining sets of standards required by the law, in particular prospective welfare reduction and postprogram standards for title IIA.

Findings from early implementation and impact surveys formed the basis for the briefings and reports that ETA prepared in accordance with the DOL's oversight responsibility. In general, the early data from a 2-year process study on JTPA implementation indicated that JTPA was being implemented according to the principles of the legislated framework. Early data from the Job Training Longitudinal Survey (JTLS), the major instrument for measuring JTPA's impact, showed that JTPA was serving the intended clientele (94 percent disadvantaged) with the intended service (73 percent of expenditures for training). In fiscal 1984 ETA also funded an 18-month study to evaluate the implementation and effects of the JTPA provisions that amended Wagner-Peyser Act. The study will assess the effect of the amendments on the ES at the State and local levels, exploring particularly changes in ES resources, services, clients and relationships with other employment and training institutions and delivery systems.

Research and Evaluation

In fiscal 1984, ETA directed its major research efforts to the requirements of new responsibilities under the JTPA, particularly the need to carry on research that would aid in the development and assessment of performance standards and address JTPA operational problems and issues.

At the same time, ETA adhered to its long standing commitment to research basic labor market issues. ETA continued, for instance, to track the working life of various demographic groups through the National Longitudinal Survey (NLS), a survey begun in 1966. In addition, nationally administered pilot, demonstration, and multi-State programs provided training and other employment-related services to special-needs groups, such as the handicapped, youth, and persons of limited English-speaking ability.

Federal Job Training Partnership Act Oversight

JTPA provides for concurrent oversight activities initiated by local, State, and Federal entities in the job training system. The exercise of oversight responsibilities at the local, State, and Federal levels assesses how the system is performing and the extent to which it complies with the statutory requirements (i.e., compliance reviews). The major emphasis of ETA oversight is to review the development and effectiveness of State systems to plan, manage, direct and assess programs within the State. A sample of SDA's are also reviewed to determine whether State systems are functioning as intended. ETA's oversight strategy includes special studies and impact evaluations mandated by sec. 454 of JTPA as well as analysis of a limited number of reported items from the States. Surveys will be conducted as needed. The ETA regional offices have primary responsibility for conducting JTPA onsite compliance reviews in States.

JTPA oversight actually began while States were gearing up for operation, prior to the October 1, 1984, start date for the main JTPA program. ETA joined OIG teams doing preaward surveys in July-August 1983. Findings, including a "critical States alert," were sent to the Secretary and ETA in September 1983. Followup activities commenced, with ETA regions tracking improvements and arranging for technical assistance where needed. In fiscal 1984, ETA put into place a comprehensive oversight system. Implementation of the ETA oversight system included the development of onsite compliance review guides—grouped in terms of three core systems and 19 subsystems—to reflect key requirements in the statute:

• *Integrity Systems*	Financial Management
	Cash management
	Management information systems
	Procurement management
	Grievance procedures
• *Employment and Training Systems*	Performance Standards
	Eligibility determination
	State monitoring
	Services to target groups
	State Job Training Coordinating Council
	Certification of local Private Industry Councils
	Local plan approval
	Program limitations
	Other statewide JTPA programs
	Summer youth activities
	Title III Formula Dislocated Worker Program
• *Labor Exchange Systems*	Wagner-Peyser Grant Plan and Compliance
	Reimbursable grants

Of the 19 compliance review guides that are used in the oversight process, 16 were completed and issued during fiscal 1984. Application of the compliance review guides began during January-March 1984 in all 10 ETA regions with the title III Discretionary Program. Priority was also given to reviews in three other areas: Cash Management, Summer Youth Employment and Training Program, and Wagner-Peyser Cost Reimbursable Grants. An automated compliance review scheduling system was developed and implemented during the fiscal year as part of the oversight system, to facilitate coordination of the onsite reviews at State and local levels. A second automated system was designed and implemented to track the preparation, review, and transmittal of the compliance review reports to the ETA Grant Officer and the States. During the last quarter of fiscal 1984, 390 onsite compliance reviews were completed.

Bureau of Labor Statistics

The Bureau celebrated its centennial with a variety of activities, including an all-employees ceremony on June 27, 1984, the anniversary of the signing of the enabling legislation by President Chester A. Arthur 100 years earlier. This law, which directed the Bureau to collect "information upon the subject of labor, its relation to capital, the hours of labor, and the earnings of laboring men and women, and the means of promoting their material, social, intellectual, and moral prosperity," still provides the principal legislative foundation for the Bureau's programs.

Chaired by the Bureau's tenth Commissioner, Janet L. Norwood, the all-employees celebration included speeches by Secretary of Labor Raymond J. Donovan, Markley Roberts and Warren Bacon—chairs of the Bureau's Labor Research Advisory Council and Business Research Advisory Council, respectively—and Stephen Fienberg, chairman of the Committee on Statistics of the National Academy of Sciences. About 1,000 persons attended, including employees, former employees, leaders in the Federal statistical community and the Executive Branch of the Government, and other friends of the Bureau. Regional office ceremonies included a videotape on the history of the Bureau with comments by some of today's major users of Bureau data.

Congress passed and the President signed a joint resolution giving special recognition and commendation to the Bureau for its century of exemplary service. The Joint Economic Committee of Congress is joining the Bureau in sponsoring a reception to be held in late January 1985 to mark the anniversary of the swearing in of the first Commissioner, Carroll D. Wright.

Three major professional associations, the American Statistical Association, the American Economic Association, and the Industrial Relations Research Association, sponsored special programs at their annual meetings, in observance of the BLS Centennial.

To take further note of its centennial year, the Bureau published a bulletin, *Our Changing Economy: A BLS Centennial Chartbook*, which traces the changes in the long series of BLS economic indicators. This chartbook provides a graphic picture of the evolution of many aspects of the American economy during the past century. A history of the Bureau will be published early next year.

Program activities in fiscal year 1984 continued to emphasize improvements in the quality of the macroeconomic series. The

Bureau initiated a major revision of the Consumer Price Index (CPI) to reflect new population data from the 1980 Decennial Census of Population and new data on consumer expenditures for goods and services from the continuing consumer expenditure survey. The multiyear schedule calls for publication of the revised CPI beginning with data for January 1987. Publication will include the two national indexes—the CPI for All Urban Consumers and for Urban Wage Earners and Clerical Workers—as well as monthly indexes for 4 metropolitan areas, bimonthly indexes for 11 metropolitan areas, and semiannual average indexes for 12 metropolitan areas. In 64 other urban areas where data are to be collected, sample representation will be insufficient for publication of local indexes.

Work continued throughout the year on three other major multiyear revisions initiated in earlier years: The redesign of the sample for the Current Population Survey, revision of the Producer Price Index, and the modernization of the current employment statistics programs.

Although no new program initiatives were requested of Congress in the fiscal year 1984 budget request, Congress included two in its 1984 Appropriations Reports for the Department of Labor. Congress directed the Bureau (1) to begin work to expand the data for the services sector of the economy and (2) to develop an annual report on permanent layoffs and plant closings, such as those that had occurred recently in the auto and steel industries. Congressional interest in the service sector related to a governmentwide effort to expand data for this sector, which today accounts for 70 percent of total employment, two-thirds of the GNP, and 40 percent of total exports. The proposed mass layoff report reflected concern about the impact of layoffs on the workers involved. The Bureau developed plans and related cost estimates to identify the major layoffs and closures, the characteristics of the affected plants and workers, and the continuing impact of the permanent layoff or plant closing on individuals whose unemployment benefits have run out. However, the Bureau had to divert the fiscal year 1984 resources for the service sector initiative to cover increased salary costs for the Bureau's staff, a higher priority requirement. Congress included these funds again, in the fiscal year 1984 Pay Supplemental to the Departments of Labor and Health and Human Services Appropriation Act, and earmarked them especially for the service sector expansion with instructions that "The Bureau. . .is directed to report to the Committee by December 1, 1984, its plan for carrying out expanded service sector collection activities, including a timetable and specific cost estimates of additional resources necessary for effective implementation."

The President's Cabinet Council on Management and Administration (CCMA) established an interagency task force to advise the Council on how to improve the Federal pay comparability process. The task force recommended—and the President's Pay Agent endorsed—improvements in the present process, or more specifically, a strengthening of the Bureau's National Survey of Professional, Administrative, Technical, and Clerical pay (PATC) (a survey of white-collar occupations) by adding smaller establishments and State and local governments, as well as broadening the scope of private industry coverage by including more service industries. The CCMA will consider this report shortly. To be ready, the Bureau developed plans to implement these recommendations, as resources become available.

BLS assumed, for the first time, both funding and managerial responsibilities for State operations for the occupational employment statistics, current employment statistics, and local area unemployment statistics programs. In addition to maintaining its long-held technical authority for these Federal/State cooperative programs, the Bureau took over the management of ongoing data collection and compilation activities and made plans for a long-range effort to improve the efficiency and consistency of State operations, including data processing activities. This year, the Employment and Training Administration (ETA) transferred $5.3 million to BLS to cover all State operations on the occupational employment statistics program. The ETA also earmarked resources from its own budget for BLS to cover State operations in the current employment statistics and local area unemployment statistics programs. BLS management of all aspects of these programs reflected a departmental decision to centralize authority for all labor market information (LMI) statistical programs in BLS to avoid the inefficiencies associated with divided management. Transfer of another $20 million from the State Unemployment Insurance and Employment Service Operations Account, a trust fund, is planned for next year to complete the consolidation of the management within BLS of the three LMI programs.

The Bureau continued to strengthen and expand the program of measurement and analysis of productivity in response to public interest in this key topic. The multifactor productivity measures introduced in 1983 for many sectors of the economy were further refined and extended, and research on factors affecting these measures, such as research and development expenditures, was accelerated. In addition, preliminary multifactor measures for steel and autos were completed. The Bureau also provided assistance to the Office of Management and Budget this year in its effort to evaluate Government agency productivity performance using BLS productivity measures for Federal agencies.

In the Occupational Safety and Health Statistics program, new issues were discussed during the year, as described below:

Definitions. BLS Report 412–3, *What Every Employer Needs To Know About OSHA Recordkeeping*, provides interpretive guidance to employers on how to comply with their responsibilities to record occupational injuries and illnesses on the OSHA log and summary forms. During the year, OMB determined that the BLS revised guidelines for recording occupational injuries and illnesses were, in effect, instructions for completing the OSHA recordkeeping forms and, as such, required OMB approval under the Paperwork Reduction Act. OMB published a notice of the proposed revisions to the guidelines in the *Federal Register* on July 20. Since time precluded appropriate evaluation of the extensive comments within the current survey cycle, OMB approved, instead, the continued use through 1985 of the guidelines as set forth in BLS Report 412-3, and assigned it an OMB approval number.

Quality of the annual survey. The Commissioner, testifying before the Manpower and Housing Subcommittee of the House Committee on Government Operations, stressed the need for a quality management program for the annual survey data. In subsequent action, the Committee of Conference directed the Department of Labor to allocate $500,000 to the Bureau for this purpose in fiscal 1985.

Six of the Bureau's publications, including the *Monthly Labor Review* and the *Occupational Outlook Quarterly*, received top prizes in competitions sponsored by the Society for Technical Communication and the National Association of Government Communicators.

Under a new pricing formula, which BLS helped work out, the Government Printing Office began reducing prices of most BLS periodicals and other publications.

Employment and Unemployment Statistics

The Bureau began publication of monthly employment estimates for 82 additional industries in the service-producing sector. The major expansion in industry detail from the establishment-based

Current Employment Statistics survey was made possible as a result of an increase in the sample of business firms reporting in the survey. This expansion in industry detail was in accord with a recommendation by the National Commission on Employment and Unemployment Statistics.

BLS work continued on the implementation of a redesigned Current Population Survey (CPS) in coordination with the Bureau of the Census and a consortium of Federal agencies. Mid-1985 is the target date for introduction of a new sample incorporating information from the 1980 Census of Population.

The Bureau continued to meet the labor force data needs of the press, business, academia, Congress, and government agencies. Analyses issued included the regular, monthly summaries of employment and unemployment, as well as the semiannual and annual reporting, plus quarterly reports on weekly earnings, women in the labor force, and minorities. Special analytical projects resulted in 19 *Monthly Labor Review* articles on a variety of labor market issues. The Bureau published its third annual report examining the impact of employment problems on the economic well-being of families as required by the Job Training Partnership Act.

The Bureau completed the first year of cooperative agreements for labor market information statistical programs with 50 States, the District of Columbia, Puerto Rico, and the Virgin Islands. The process, involving contracts for the three programs for which BLS now has technical, funding, and managerial responsibility served to enhance the quality of the data, to preserve the funding base, and to lead to cost-effective management.

The Bureau continued test and development activities to modernize the establishment survey of employment, hours, and earnings. Projects are under way to determine the appropriate estimating cell structure to be used by cooperative State agencies, and to test the feasibility of collecting new types of data, such as hours and earnings of all employees. These studies should provide important information for long-term evaluation of alternative sample designs and data collection techniques. Also, tests continued for the application of new survey techniques toward the goals of improving data quality and timeliness in BLS Federal/State cooperative programs. Other efforts were the development of a microcomputer environment for the local area unemployment statistics program and of a computer-assisted telephone collection program for the business survey.

The Bureau developed industry-occupational employment estimates for nonmanufacturing industries, based on data collected through the Occupational Employment Statistics (OES) survey. A redesigned occupational structure for the OES program, based on the Federal Standard Occupational Classification system, was used in developing survey questionnaires for the 1984 OES survey of mining, construction, finance, and selected service industries.

Objectives of the employment and wage program (ES-202) continued to focus on improving the quality and efficiency of the operations of cooperating State agencies. All cooperating agencies are now reporting 4-digit Standard Industrial Classification (SIC) data at the county level. Timeliness has also improved, as 46 States are reporting on time. The design and testing of the new county level macroedit were completed, and a new data base to support the system was developed.

The 1982 *Employment and Wages* bulletin was issued featuring photocomposition of tables for the first time. News releases containing annual average pay for Metropolitan Statistical Areas and by State and industry for 1982 and 1983 were also issued. The Employment and Training Administration used ES-202 data in their determination of minimum pay for alien farm workers; for setting performance standards under the Job Training Partnership Act; and in job placement centers. The Health Care Financing Administration of the Department of Health and Human Services, using ES-202 data for area wage indexes, expanded coverage of their reimbursable programs under medicare to include several other health industries in addition to hospitals.

The universe maintenance operations program provided assistance to the States for the addition of employer identification numbers to their 1984 unemployment insurance (UI) name and address files. Specifications for editing the 1984 UI name and address files were developed and will be used in creation of the 1984 BLS universe file. A reference manual for SIC coding, *SIC Coding Interpretations*, was compiled and issued to the States and BLS staff. In preparation for the 1987 SIC revision, research was conducted on proposed changes to the SIC coding structure, and comments were forwarded to the Office of Management and Budget for technical review.

Prices and Living Conditions

During 1984, revision of the Consumer Price Index (CPI) began on a schedule which will lead to publication of a revised index for January 1987. Major elements in this revision process will include: (1) Selection of new geographic samples to reflect changes in the distribution of the population as well as a new sample of items to be priced; (2) modernization of the computer system used for processing CPI data; (3) establishment of an improved program of quality control and measurement; and (4) improvement in the measures of price change for the shelter costs component of new housing. Within the CPI itself, the program to update the CPI outlet sample in one-fifth of the CPI pricing areas went forward as scheduled.

The revision of the Producer Price Index (PPIR) continued; publication of revised indexes, utilizing scientific sampling and improved data collection techniques, expanded to approximately 315 industries in fiscal 1984. The expansion phase of the PPIR is scheduled for completion in January 1986.

In the international price program in fiscal 1984, publication of indexes for exports was expanded to 100 percent of the value of products exported from the United States, and publication of price indexes for products imported continued at the 100-percent level.

The development of the computer system for Consumer Expenditure Survey (CES) data continued and will lead to an extensive publication program of consumer expenditure data in 1985 for the years 1980 through 1983.

More than 1 million copies of printed materials were distributed in response to more than 400,000 recorded requests for data and other information. These figures exclude an extremely heavy correspondence and analytical workload in response to written and telephone requests from the Congress, policymaking agencies in the Executive Branch, private business, labor, and the general public.

Wages and Industrial Relations

The Employment Cost Index (ECI) is now released in the month that follows the reference month, because the processing cycle was shortened by several days. The quality of ECI data was enhanced through a sample replacement effort that substantially strengthened the ECI in finance, insurance, and real estate; transportation and public utilities; and retail trade. Also, work began to introduce new ECI employment weights and estimates of variance in numerous index measures. Further improvements in ECI timeliness are anticipated as a result of preliminary work on an improved data entry system that will increase regional office productivity. An article analyzing movements in purchasing power over the past 8 years, using data from the ECI and the Consumer Price Index, was published in the May 1984 *Monthly Labor Review*.

The annual Survey of Professional, Administrative, Technical, and Clerical Pay (PATC) was delivered on schedule for use in the Federal pay comparability process. In addition, many special tabulations were prepared for research purposes at the request of the Office of Personnel Management and an interagency work group established to advise the Cabinet Council on Management and the Administration on how to improve the pay comparability process. The work group recommended that the PATC survey be expanded to small establishments, to service industries not now studied, and to State and local governments.

The annual Employee Benefit Survey (EBS) of paid leave and employee benefit plans in medium and large firms was conducted with expanded statistical tabulations that distribute plan participants according to detailed provisions. The EBS survey, done in conjunction with the PATC survey, provides a unique source of comprehensive data on detailed characteristics of employee benefit plans—leave, pensions, and a variety of insurances—in private industry. The EBS bulletin included analysis of trends back to the first survey in 1979. This program produced three *Monthly Labor Review* articles based on the pension plan data—an analysis of surviving spouse benefits in private pension plans, a study of the effect of Social Security payments on private pensions, and a report on postretirement pension increases.

Area wage surveys in 70 metropolitan areas were conducted under the regular program of occupational wage surveys. In 19 of the areas studied, information was collected for the first time on the incidence of formal provisions for supplementary unemployment benefits; severance pay; cost-of-living adjustment; and paid leave for personal reasons, jury duty, funerals, and military duty. In addition, new job descriptions for the occupations of word processor and material handling laborer were introduced.

Under contract to the Employment Standards Administration (ESA), 95 area wage surveys and 42 special industry wage surveys were conducted for use in administering the Service Contract Act. In nine of the areas, data were obtained on wages in government as well as in private industry. In the territory of Guam, two surveys were conducted, a cross-industry survey including government and a survey of the construction industry. Both surveys included establishments employing 20 workers or more. The feasibility of using intermittent employees to collect wage data by telephone was tested in three areas. Also, data collection for a test survey of construction wages and employee benefits conducted for ESA was completed.

Seven industry wage surveys were conducted this year—down from about 12 to 15 conducted annually prior to the fiscal year 1982 budget cut. Work on measuring variances of the industry wage survey estimates continued throughout the year. Many formulas were tested, and programming has begun on the one selected as most appropriate.

Data collection for the banking industry wage survey will be coordinated with area wage surveys during calendar year 1985 in an effort to conserve resources in both data collection and review, as well as to reduce respondent burden. If the project is successful, additional industry surveys may be coordinated in the future with the area program.

The Bureau compiled universes and selected samples for approximately 170 occupational wage surveys for the Federal Wage System (FWS) in 1984. Work on a sample selection procedure that will maintain continuity from one year's survey to the next was completed. This procedure became operational in June 1984.

Data on the size of wage and compensation adjustments agreed to in major collective bargaining contract settlements in private industry, a principal economic indicator, were published each quarter. Data on the size of settlements in State and local governments were published semiannually. Private industry data are for contracts covering 1,000 workers or more, but government data are limited to contracts covering 5,000 or more. During the year, however, a project to expand the scope of the government series to parallel that of the private industry series was initiated and nearly completed.

The *1984 Bargaining Calendar* was published, providing data on major contracts scheduled to expire or subject to reopening during the year. An analysis of 1984 bargaining activity, including an expiration of key bargaining situations, was published in the January 1984 *Monthly Labor Review*. The article also provided data on wage changes scheduled from earlier bargaining and cost-of-living reviews.

Each month, highlights of key negotiations and other developments in labor-management relations were published in *Current Wage Developments*. This periodical also provided the details of wage and benefit changes in individual major bargaining situations and selected nonunion situations. It also carried monthly statistics on major work stoppages, expiring agreements, and extensive data on changes in employee compensation.

Productivity and Technology

The BLS further strengthened and expanded the program of measurement and analysis of productivity and technology—topics of substantial public interest. Productivity measures are widely regarded as a major indicator of U.S. economic progress, and the Bureau refined and extended the series of published measures to provide broader coverage.

The multifactor productivity measures, published for major sectors of the economy, advance a major BLS effort to expand official productivity measures to take account of the role of capital inputs in changes in U.S. labor productivity. First introduced in fiscal year 1983, considerable effort has been made over the past year to further refine and extend these key measures. To further this effort, studies are under way to assess factors that affect multifactor measures, including impact of research and development expenditures, changes in labor force composition, changes in capacity utilization, changes in factor prices and depreciation schedules, and the recently completed survey comparing hours worked to hours paid. In addition, multifactor measures are being developed for major industries, with measures for steel and autos completed.

The number of industries for which BLS publishes labor productivity measures also expanded. The Bureau introduced new productivity measures for the meatpacking industry; retail apparel stores, including separate measures for men's and boys' clothing stores, women's ready-to-wear stores, family clothing stores, and shoe stores; and the switchgear industry. A total of 129 separate productivity measures are now issued for industries in the manufacturing, mining, transportation, trade, communication, and service sectors of the economy.

The Bureau also made progress in measuring productivity in the government sector. The productivity measures for the Federal Government were updated to cover fiscal year 1982. These measures currently cover fiscal years 1967 to 1982 for 28 functional groupings of Federal agencies, representing 62 percent of the Federal civilian work force. In addition, a bulletin on measuring productivity in State and local government activities was published.

In the international area, the Bureau updated trends in manufacturing productivity and labor costs for 11 countries, added a twelfth country to the series, and initiated research toward the development of multifactor productivity measures for several countries. The staff also updated the measures of comparative levels of hourly compensation costs for production workers in 34 countries and 36 manufacturing industries, and the series on the international comparisons of labor force, employment, and unemployment in 10 industrial countries. These measures provided insights into the changing competitive position of the United States.

In response to substantial public interest, the Bureau continued to assess the employment implications of automation and other technological changes. Reports appraising the impact of major technological changes on productivity, employment, and occupational requirements over the next 10 years were prepared for four additional major American industries—hosiery, folding paper board boxes, metal cans, and laundry and cleaning.

Economic Growth and Employment Projections

During fiscal year 1984, labor force, economic, and industry and occupational employment projections to 1995 were published. The 1984–85 edition of the *Occupational Outlook Handbook* and the 1984 edition of *Occupational Projections and Training Data* were also published. National industry-occupation matrices for 1982 and 1995 were made available to the public. An analysis of past and projected employment trends in high technology industries was also published. In addition, an evaluation of BLS's projections of 1980 industry employment was prepared and published.

Several special analyses were completed during fiscal 1984, and published in the *Occupational Outlook Quarterly*. These included an analysis of apprenticeship opportunities that discussed the qualifications generally required for entry into an apprenticeship program, and how individuals can apply for an apprenticeship; the job outlook for college graduates through the mid-1990's; the career patterns of June 1980 college graduates in May 1981; and career opportunities in the rapidly growing health technology fields.

Occupational Safety and Health Statistics

The BLS occupational safety and health statistical program includes the Annual Survey of Occupational Injuries and Illnesses and recordkeeping, the Supplementary Data System (SDS), and the Work Injury Report (WIR) surveys. Program activities are conducted through Federal-State cooperation.

Annual Survey. In November 1983, BLS issued a news release on national estimates of incidence rates and numbers of occupational injuries and illnesses by industry for calendar year 1982. More detailed statistics by industry and size of establishment were published in a bulletin in April 1984. Industry guides for construction, manufacturing, transportation and public utilities, trade, and services were also updated and published. These guides are intended primarily for use by employers. Occupational fatality estimates and causal characteristics appeared in an article in the March 1984 *Monthly Labor Review*. Individual State estimates for 1982 were produced by 39 States. In February 1984, about 280,000 employers nationwide were mailed survey forms to provide their 1983 data. Annual survey data have multiple uses, such as trend analysis, interindustry comparisons, inspection scheduling and targeting by the Occupational Safety and Health Administration, and public awareness of workplace safety and health.

Supplementary Data System (SDS). In fiscal year 1984, 32 States participated in the SDS, which provides detailed data on the characteristics of work injuries and illnesses based on State workers' compensation records. BLS collected and is processing 1983 State workers' compensation data. Standard SDS tabulations, showing distributions of occupational injuries and illnesses by industry and occupation, as well as microdata, are available through the National Technical Information Service. The data identify the nature and source of workplace injuries and illnesses, part(s) of body affected, type of accident or exposure, and other characteristics not available from the annual survey, and are used to focus on special problem areas, such as back injuries.

Work injury reports (WIR). This survey program obtains detailed accident information directly from injured employees. The Occupational Safety and Health Administration and the National Institute for Occupational Safety and Health use results of WIR studies to evaluate and develop safety standards, compliance strategy, and training programs.

Results from three WIR studies were published in fiscal year 1984: Falls from elevations, falls on stairs, and injuries in the logging industry. Work on WIR surveys in progress includes warehouse workers, construction laborers, and thermal burn injuries.

Management Efficiencies

Cost control, emphasized by the President and recommended by the President's Private Sector Survey on Cost Control in the Federal Government (the Grace Commission) has remained a high priority. The Bureau evaluated the Administration's requirement for a 3-percent reduction in the number of positions in grades 11–15;

related resources for this reduction were eliminated from the fiscal year 1984 budget. Other management efficiencies included:

Computer service improvements. A new contract was awarded to a private concern to provide the Bureau with computer services. It provided for significantly improved services at lower cost and included a new provision—unique in the Department—for recouping losses due to the contractor's failure to meet specified standards.

At the same time, a new telecommunications network was introduced. The new system, which replaced services discontinued by the Department, integrated communications between the national and the eight regional offices and involves computer-assisted data collection, editing, transmission, and publication.

Several pilot tests were run to identify the most effective uses of microcomputer technology in a local area network that is designed to connect microcomputers with the mainframe computers.

Managerial improvements for the cooperative programs. The recently transferred managerial responsibility for the cooperative collection of Labor Market Information (LMI) with State governments from the Employment and Training Administration involved the immediate assumption of management responsibility for $25 million to be allocated to State programs to collect data. After selecting the most appropriate contract instrument for the allocation of these resources, the Bureau worked closely with State agencies and BLS field personnel, who are involved in developing the data, to develop detailed specifications for State operations to be included in the contract. Following this, a completely new computerized contract tracking system was put in place, which enables close monitoring of resources spent in the 50 States.

Confidentiality of Bureau data. The Bureau continued its efforts to secure legislation that would provide legal assurance of confidentiality to survey respondents. The Office of Management and Budget is developing similar legislation that would protect all Federal programs. The Bureau cooperated in these broader efforts while at the same time seeking separate legislation to protect its own data until such time as the OMB proposal becomes operative.

Security of Bureau data. In response to the Commodity Futures Trading Commission's approval of a petition by the Coffee, Sugar, and Cocoa Exchange to sell futures contracts based on the Consumer Price Index, the Bureau moved to tighten its security measures to protect its data from premature release, which might provide a monetary advantage to speculators.

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Occupational Safety and Health Administration

In fiscal 1984, the Occupational Safety and Health Administration (OSHA) continued its efforts to improve and promote workplace safety and health. OSHA concentrated its efforts on the areas of regulation, enforcement, service, assistance and training in recognition of workplace hazards.

On the regulatory side, OSHA continued to produce standards that protect workers effectively and as cost-effectively as possible. Further, OSHA continued to supplement safety and health standards and their enforcement with a cooperative approach to solve workplace safety and health problems.

One way OSHA provided services was through its newly conceived consultation services program. To better serve employees and employers, the consultation program was revised to expand the services consultants can offer to promote more comprehensive and enduring improvements to a workplace's safety and health program. The changes will enable consultants to evaluate more fully and help improve an employer's total workplace safety and health program; conduct onsite training and education for workers and employers; and recommend employers for a 1-year exemption from routine OSHA inspections for worksites meeting certain criteria.

In addition, the Occupational Safety and Health Training Institute has developed and is offering more courses on the establishment and management of workplace health systems and programs.

Management

One of OSHA's major focuses was to strengthen and expand the Integrated Management Information System (IMIS). The program, begun in 1982 and more fully implemented in 1984, assures a more efficient operation of the area offices; more information about State operations; improved debt collection procedures; and more accurate and timely data concerning OSHA's enforcement activities. Since its inception, the program has provided the information needed to manage dynamic occupational safety and health programs at the field and management levels.

Standard-Setting

During the fiscal year, OSHA issued several final standards. The hazard communication standard, dated November 25, 1983, require employers to provide information on chemical hazards to about 14 million workers in some 300,000 manufacturing establishments, as well as to provide a flow of information to downstream chemical users. It also establishes requirements for the labelling of chemical hazards, for preparation of material safety data sheets, and for a system to train workers to safely handle dangerous chemicals.

A new standard for occupational exposure to ethylene oxide (EtO), issued June 22, 1984 is designed to protect about 140,000 workers against cancer reproductive damage, and other health hazards. Most worker exposure occurs in hospitals when EtO is used as a sterilant gas and in firms that manufacture medical products.

OSHA also issued an emergency temporary standard for asbestos on November 4, 1983, to lower the permissible limit for worker exposure to asbestos from 2 fibers of asbestos per cubic centimeter of air (2 f/cc) to 0.5 f/cc. A proposed permanent revision to OSHA's asbestos standard followed the emergency temporary standard, which was stayed by Court action on March 7, 1984. Although the proposal covers general industry, maritime, and construction employers, OSHA is considering whether to promulgate a separate standard for the construction industry.

OSHA also proposed that agricultural employers who hire 11 or more farm workers for hand labor in the fields be required to provide toilet and handwashing facilities and potable water close to the employee's work location. The proposal seeks to assure that elementary sanitation facilities are available to about 529,000 hand laborers in agricultural fields, as they are to workers in all other occupations under OSHA's jurisdiction.

A final standard was issued on February 3, 1984, to protect employees servicing potentially dangerous single-piece and multi-piece rim wheels, and a rule to revoke approximately 150 advisory and repetitive standards was issued. OSHA also proposed safety standards that will protect workers in oil and gas well drilling and servicing and grain handling facility employees from risks of fire and explosion; a proposed rule for construction cranes and derricks to cover hoisting of personnel, a revision to the standard on accident prevention tags, and a proposed rule for safety testing and certification of certain workplace equipment and materials.

Enforcement

In fiscal 1984, OSHA conducted 71,371 total inspections — the highest total in the past 8 years. Of these inspections 87 percent were targeted to focus on high-hazard industries and worksites.

OSHA developed and refined a targeting program for safety inspections in the manufacturing sector. This policy focuses walkaround inspections on individual workplaces with lost-workday case rates worse than the national average for manufacturing. The policy, which went into effect on October 1, 1981, maximizes available resources by concentrating on worksites with the more serious hazards.

Also a Special Emphasis Program for safety inspections at grain elevators was extended. Selected elevators will undergo complete safety checks to raise OSHA's profile in the industry and to promote management and labor attention to possible fire and explosion hazards.

During the year, the agency revised its Field Operations Manual and developed and issued an Industrial Hygiene Technical Manual to reflect current industrial hygiene practices and procedures.

OSHA also conducted approximately 700 health inspections in construction and manufacturing to check for violations of its asbestos standard.

Voluntary Efforts

To increase the usefulness of consultative assistance to employers, OSHA has expanded its scope by shifting the focus from simply the identification and correction of workplace hazards to a broader concern for the effectiveness of the employer's management system for ensuring a safe workplace. Provisions also were added for off-site consultation, training and education of employers and their employees, and exemption from general schedule compliance inspections. The central purpose of the expanded program is the prevention of workplace injuries and illnesses by assisting employers to establish effective workplace safety and health programs.

The consultation service is provided at no cost to the employer through Federal and State funds. Aimed mainly at small business employers in more hazardous industries, consultation may cover all or part of the workplace in response to the employer's request. The service is administered by State government agencies or universities utilizing staff separate from enforcement. The service is confidential to the employer, and a request for consultation does not trigger a State or Federal inspection. While the service is penalty free, the employer is required to take immediate action to eliminate employee exposure to an imminent danger situation and to correct any identified serious hazards within a reasonable time.

Participants in the nationwide exemption program are limited to fixed worksite employers who have 150 or fewer employees. Such employers may be exempted from OSHA general schedule enforcement inspections (not complaint inspections or accident investigations) for a period of one year if they have: (1) received a comprehensive consultative visit; (2) corrected all hazards identified during the visit; and (3) demonstrated that an effective safety and health program is in operation.

OSHA expects that the expanded consultation program now offered will serve as an added incentive for employers to request and utilize full-service consultation, and thereby enhance the employer's ability to identify and control hazards.

In another important area, OSHA granted more than 18 approvals during the year to companies whose worksites met the criteria of its Voluntary Protection Programs. The programs, Star, Try and Praise, were inaugurated in July 1982 to recognize firms with excellent safety and health programs. The concept of the programs is based on the realization that workplace compliance with OSHA standards alone will never completely accomplish the goals of the Occupational Safety and Health Act. Therefore, the programs are intended to supplement OSHA's enforcement effort by identifying the "cream" of the employer "crop" so that limited enforcement resources can be directed to workplaces where the most serious hazards exist and to encourage voluntary improvement and expansion of internal worker protection systems. To date, 50 percent of the participants have reduced their already low injury rates under the Try program and Star participants have rates about 80 percent lower than their industry average.

State Programs

During fiscal 1984, OSHA continued to foster the strong Federal/State relationship established by the Occupational Safety and Health Act of 1970. Twenty-five States and territories are administering their own OSHA-approved State plans. Twenty-three of these State plans cover both private sector and State and local government employment while two, Connecticut and New York, are limited in scope to employees of the State and its political subdivisions. In furtherance of this cooperative effort in the national occupational safety and health program, OSHA officials attended quarterly meetings held by State plan officials to assure the States' continued knowledge of and involvement in policy initiatives and other matters of mutual interest.

Key agency actions in the State program area during the year include the following:

- Granting final approval to Virgin Islands, Hawaii and Alaska State plans—the first final approvals ever granted. Final approval is the last step in the State plan approval process and represents OSHA's judgment that the State plan in actual operation is "at least as effective" as the Federal program.

Authority for concurrent Federal jurisdiction is relinquished with final State plan approval.

- Granting initial approval for New York to administer a State plan limited in scope to public employees of the State and its political subdivisions.
- Certifying the Virginia State plan, bringing the number of certified State plans to 22. Certification is a necessary prerequisite (attesting to structural completeness of the State plan) before OSHA can grant final approval to a State program based on the effectiveness of its actual performance.
- Initiating a process to revise "fully effective" State staffing benchmarks in accord with the terms of the court order in *AFL-CIO* v. *Marshall* (C.A. No. 74–406). The revision process relies on State-specific data.
- Accepting 21 States as partners in OSHA's Integrated Management Information System, thus assuring the availability of much more comprehensive data on State and Federal performance.
- Implementing the revised State plan monitoring and evaluation system with the initiation of routine computerized State Plan Activities Measures Reports, comparing State performance to Federal performance or other relevant criteria, as the basis for OSHA's monitoring.
- Issuing a directive, after extensive coordination with the States, that revises and clarifies the process whereby OSHA reviews and approves State occupational safety and health standards promulgated pursuant to an approved State plan, and in particular the process for addressing State standards which differ substantively from the comparable OSHA standard.

Training and Education

Annual enrollment for compliance officers, State personnel, Federal safety and health representatives from other agencies, and the private sector is 7,105. The safety and health training offered at the Institute is an important part of OSHA's efforts to use all of its resources to help employers and employees eliminate occupational safety and health hazards. In addition to the 57 courses offered at the Institute, 12 courses will be conducted at sites away from the Institute where actual worksite situations can be experienced. Also, the Office of Training and Education is developing materials, consisting of instructors' manuals and related slides, for OSHA field offices to use in conducting training sessions for other Federal agencies and for the private sector. OSHA will offer six different courses for private sector personnel including one on safety and health for the maritime industry; two for construction; and three for general industry.

Other training and education achievements include: (1) cooperating with National Institute for Occupational Safety and Health in promoting Project Minerva, a program to incorporate safety and health training in schools of business administration; (2) disseminating information to health care workers on the hazards of hepatitis B infection and recommending 15 work practices in caring for patients infected with hepatitis B virus; (3) cosponsoring three hazard communication seminars in January 1984 in cooperation with the American Conference on Chemical Labeling; and (4) sponsoring two 1-day orientation sessions in April 1984 at the OSHA Training Institute on safety and health recognition for attorneys and physicians.

OSHA also is developing guidelines for employers to follow in building their own safety and health training programs. For example, OSHA issued model training guidelines for employers to provide employees more information and instruction on recognizing, avoiding, and preventing unsafe and unhealthful working conditions. These guidelines are designed to help employers provide the information necessary for employees to work at minimal risk, and may be used by the employer to develop, conduct, evaluate and revise training programs for combatting any type of occupational safety and health hazard identified in the workplace. It will also enable employers to identify employees at highest risk.

Also available are the standards digests and a booklet to help employers prepare for emergencies. This booklet, "Emergency Response in the Workplace," compiles for employers in one source both required and recommended strategies for preparing for workplace emergencies such as fires or chemical spills. The booklet lists applicable OSHA standards and provides information on the agency's free consultation program and services offered by OSHA area offices.

Under its New Directions grant program, OSHA awarded $6.8 million to 107 nonprofit groups providing a variety of job safety and health services. The grants support training and education projects addressing serious problems in construction, manufacturing, and other high-hazard occupational and industrial sectors.

The New Directions grant program is designed to provide the funds an organization needs to develop its staff, skills and services to become a competent, self-sufficient center for job safety and health. Grantees generally participate in the program for up to 5 years with some grantees also being funded for a 1-year planning phase in which the 5-year program is planned and organized.

During the fiscal year, $1.4 million of the $6.8 million was awarded to 26 new grantees. These first-time program participants consisted of 14 labor organizations and 12 employer associations. Sixteen of the new grants were for 1-year planning purposes.

Forty-five of the grantees awarded funds completed their program this year. Most of these grantees now have become competent, self-sufficient centers for job safety and health. This group consists of 18 labor organizations, 6 employer associations, 17 educational institutions, and 4 other nonprofit organizations.

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Employment Standards Administration

In 1984, the Employment Standards Administration (ESA) concentrated on providing timely investigation of complaints of labor law violations and timely determination of workers' compensation claims. By increasing efficiency and using automatic data processing systems, each ESA agency was able to achieve greater productivity and supply relief more quickly to workers covered by its programs.

The Office of Federal Contract Compliance Programs (OFCCP) initiated a study to determine whether compliance reviews are being completed in a timely manner and whether there is a relationship between the length of a compliance review and the quality of that review. OFCCP also began implementation of a Compliance Review Information System to enhance its ability to capture compliance review data used to evaluate both contractor and OFCCP performance. And the agency's national office was restructured to maximize allocation of resources for effective program operation.

During fiscal 1984 OFCCP conducted a record 5,025 compliance reviews and 1,246 complaint investigations and reached financial agreements of $32,699,877 for 20,500 women, minorities, disabled persons and veterans, including outlays for training, future pay increases, backpay and increased recruitment. Formal enforcement actions were filed against 25 firms.

The Wage and Hour Division conducted 64,155 compliance actions under the Fair Labor Standards Act, of which 44,264 were initiated as a result of complaints from workers or concerned citizens. FLSA enforcement disclosed $33 million due 187,527 workers as a result of minimum wage violations, and $74 million due 260,741 employees as a result of overtime violations. Employers agreed to pay $21 million in unpaid minimum wages to 150,318 workers and $57 million to 223,365 employees due overtime pay for a total of $78 million in FLSA back wages in fiscal 1984.

The Secretary's 1981 action removing the restrictions on the knitted outerwear industry was challenged in the U.S. District Court for the District of Columbia by the International Ladies' Garment Workers' Union and others. While the lower court upheld the Department's action, the U.S. Court of Appeals reversed this decision on February 29, 1984, remanding the case to the District Court with instructions to reimpose the ban. Responding to this decision the Department published in the *Federal Register* on March 27, a proposal to permanently lift the ban, and inviting comments.

The Office of Workers' Compensation Programs (OWCP) continues to target the elimination of fraud, waste and mismanagement while improving claims determination services.

To further these goals, OWCP engaged in early-return-to-work efforts as a key element in the longterm case management of claimants in the Federal Employees' Compensation program, with other agencies participating in job search and reemployment efforts. In addition, training courses were utilized for compensation specialists in processing and examining claims. Accountability reviews continued to be used to provide greater quality control functions at the district level.

In September 1984, extensive amendments to the Longshore Act were enacted by Congress, the first amendments since 1972. The Act was signed by President Reagan on September 28, 1984 with most of the substantive changes to go into effect ninety days thereafter. The new law makes important changes in benefit schedules, it permits debarment of medical providers to insure the integrity of the program and increases penalties for fraudulent actions.

The Division of Coal Mine Workers' Compensation continued to decentralize its claims operations to district offices to improve the quality and timeliness of its processing. The Division recovered over $16.5 million from responsible mine operators, insurance carriers, beneficiaries and medical providers. Monthly benefits payments to coal miners and their survivors totalled approximately $444 million. Total payments by the program, including monthly benefit payments, retroactive payments to miners, and payments to medical providers totalled approximately $595 million.

Through coordination between OWCP rehabilitation specialists and FECA claims examiners, the Vocational Rehabilitation unit saved $8 million in Federal employees' compensation costs. In the Longshore program, rehabilitation saved $3 million in compensation costs.

The Office of State Liaison and Legislative Analysis continued assistance to the States in various aspects of ESA programs. The Legislative Analysis unit developed testimony and background information for ESA use in Congressional hearings, and provided technical assistance to the Congress on the Longshore and Harbor Workers' Compensation Act Amendments of 1984. The State

Employment Standards Programs unit responded to over 400 requests from State labor departments and others, and analyzed some 850 new State laws, publishing summaries of about 300 of them. The unit is also compiling information on State prevailing wage laws.

Office of Federal Contract Compliance Programs

During fiscal 1984, OFCCP conducted 5,025 compliance reviews of contractor facilities employing 2,940,540 workers to determine compliance with Executive Order 11246, as amended, and with the nondiscrimination and affirmative action provisions of the Rehabilitation Act of 1973, as amended, and 38 USC 2012. OFCCP conducted 1,246 investigations of discrimination complaints, and has reduced the number of complaints on hand from 935 at the end of fiscal 1983 to 748 at the close of fiscal 1984.

In addition, technical assistance was provided to 8,932 contractors outside of the compliance review process. Examples of the assistance provided include helping contractors to arrange internal or external training and to locate recruitment and referral sources.

There were 465 agreements resulting from compliance reviews and complaints in which contractors committed a total of $32,699,877 in financial outlays for training, future pay increases, backpay and increased recruitment. Of this total in financial settlements, $2,656,384 in backpay awards went to 496 women, minorities, disabled persons and veterans. Formal enforcement actions, which may result in the removal of a contractor from eligibility to compete for Federal contracts, were filed against 25 firms.

During fiscal 1984, 42 liaison groups were formed. These groups explore general compliance problems and solutions in a cooperative setting. They contribute valuable input to OFCCP on ways to improve the compliance process and address aspects of affirmative action unique to their employment situations or industries. OFCCP, in turn, provides advice, specific technical assistance and an exchange of information.

In 1,550 instances, OFCCP arranged "linkage" agreements between employers and agencies providing worker training or referral services.

OFCCP has continued to pursue several previous initiatives and has introduced new initiatives to enhance the effective functioning of the program. Among these are the following:

1. *Realignment of Field Offices and Reorganization of National Office*—These initiatives were undertaken to improve the responsiveness of the agency to program needs, improve National Office support to the field, maximize the allocation of resources and to improve management of program operations.
2. *Recognizing Contractor Performance*—OFCCP has formalized its procedures for identifying and recognizing contractors which demonstrate exceptional performance in carrying out their nondiscrimination and affirmative action obligations. This is the second year of this initiative, which was inaugurated in 1983.
3. *Linkage Project*—OFCCP, in conjunction with ESA's Research Division, has designed a study to determine the kinds and nature of linkages actually obtained, as well as their relationship to program accomplishments.
4. *Average Hours Study*—OFCCP has begun an indepth study to examine the relationship, if any, between the quality of compliance actions and the time expended to complete them, and to establish average hour standards reflective of the quality and complexity of compliance actions.
5. *Compliance Review Information System (CRIS)* — OFCCP has developed and completed full regional implementation of an automated management information system to meet program data requirements and provide a variety of tracking information on compliance reviews in process. CRIS replaces the Automated Management Information System (AMIS) to improve the quality, integrity, and timeliness of data used in evaluating contractor performance, as well as the agency's own program performance. This system provides a single source of information on all compliance review activities under direct OFCCP management control.
6. *Microcomputer Prototype Project* — The objective of this initiative is to determine if microcomputers can provide two important services not available in the current computer system: (1) whether it can provide Equal Opportunity Specialists with a more efficient tool for conducting case analysis and statistical analysis support, i.e., cohort analysis, impact ratios, job area acceptance ranges, standard deviation and statistical significance calculations, graphic analysis, etc.; and (2) whether it can usefully provide area office access to information developed on a national or regional basis

that will allow area offices to better track cases and have more current program performance information. In addition, OFCCP would gain knowledge of problems and needs arising from the introduction of microcomputers in all three levels of its organization; it would also provide OFCCP with important information about designing a microcomputer system that can be effectively meshed with ESA's mainframe computers.

7. *Training Program* — The training program is designed to assist Equal Opportunity Specialists (EOS's) in developing and enhancing the investigatory skills necessary to discharge their responsibilities in a thorough, fair and objective manner. Working closely with ESA's training experts, OFCCP is developing a series of courses which address the needs of staff at all experience levels, from "new hires" through senior EOS's.

Minimum Wage and Overtime Standards

Timely response to complaints was the cornerstone of the Wage and Hour Division's enforcement strategy during fiscal year 1984. The Division conducted 64,155 compliance actions under the Fair Labor Standards Act, of which 44,264 were initiated as a result of complaints from workers or concerned citizens. The inventory of complaints increased from 19,935 to 21,675.

The FLSA enforcement program disclosed $33 million due 187,527 workers as a result of minimum wage violations, and $74 million due 260,741 employees as a result of overtime violations. Employers agreed to pay $21 million in unpaid minimum wages to 150,318 workers and $57 million to 223,365 employees due overtime pay for a total of $78 million in FLSA back wages in fiscal 1984.

The difference between the amount of back wages found due employees and the amount that employers agreed to pay reflects, for the most part, sums involved in pending litigation and the refusal of certain employers to pay back wages in cases the Department deemed unsuitable for litigation. The FLSA permits individuals to bring private suits to collect back wages, liquidated damages, attorney's fees, and court costs. The Department's enforcement statistics do not include the back wage amounts recovered in private suits.

The Special Targeted Enforcement Program (STEP) is aimed at discouraging employers from employing illegal aliens at less than legal wages. Because illegal aliens do not file complaints, the

Wage and Hour Division targets FLSA investigations in industries and localities where aliens have traditionally been found to be employed. The purpose is to reduce the incentive for hiring those workers who tend to accept employment at less than the minimum wage and/or without proper overtime compensation. In fiscal 1984, 16,860 STEP investigations were conducted.

Child Labor Standards

The Wage and Hour Division found 8,877 minors employed in violation of the child labor provisions of the FLSA during fiscal 1984. The Division assessed over $1 million in child labor civil money penalties against 721 employers who were found to be illegally employing 6,563 minors.

A total of 144 exceptions were filed with the Wage and Hour Division by employers contending that penalties should not have been assessed and requesting a hearing before an administrative law judge.

Revitalization of the Work Experience and Career Exploration Program (WECEP) for 14- and 15-year-old youths likely to drop out of school was begun during this fiscal year in cooperation with the U.S. Department of Education and State education departments. Twenty States presently participate in WECEP; improvement of existing programs and expansion of programs to other States is anticipated.

Special Minimum Wages

Section 14 of FLSA authorizes the Secretary of Labor, "to the extent necessary to prevent curtailment of opportunities for employment," to provide for the employment of certain categories of workers at wage rates below the statutory minimum wage. These categories include full-time students employed in retail or service establishments, agriculture, or institutions of higher education; learners; apprentices; handicapped workers and messengers. Such employment must be authorized under special certificates issued pursuant to the Secretary's regulations.

The Division issued 41,211 certificates during fiscal 1984 authorizing the employment of approximately 418,810 workers at less than the minimum wage. Full-time students and handicapped workers employed by sheltered workshops accounted for, respectively, 53 and 44 percent of the workers employed under certificates.

The Secretary's Advisory Committee on Sheltered Workshops met in November 1983 and May 1984 to consider, among other matters, revisions to the regulations governing the authorization of special minimum wages for handicapped workers employed by sheltered workshops. The committee provides advice and recommendations to the Secretary on the administration and enforcement of the Fair Labor Standards Act, the Walsh–Healey Public Contracts Act, and the Service Contract Act as these laws apply to the employment of handicapped workers by sheltered workshops, hospitals, and institutions.

Industrial Homework

Since the 1940's, homework has been restricted in only seven industries. In October 1981, following an extended period of public hearings and comment, the Department removed the restrictions in one of these industries, knitted outerwear. The Secretary's action removing the restrictions was challenged in the U.S. District Court for the District of Columbia by the International Ladies' Garment Workers' Union and others.

The District Court upheld the Department's action, but upon appeal the U.S. Court of Appeals for the District of Columbia reversed, holding that the Department's decision had not been adequately justified. It therefore remanded the case on February 29, 1984 to the District Court, with instructions to reimpose the ban. Following reinstatement of the ban, the Department, on March 27, published in the *Federal Register* a proposal to permanently lift the ban, and requested comments on total recision of the ban and on four specific alternatives.

American Samoa

The special wage rates for American Samoa, which are lower than the minimum wage for the mainland United States, are established under authority of the 1956 amendments to the FLSA. These amendments extended the Act's coverage to Samoa and adopted the industry committee procedures for determining the rates. Under this procedure, the committee is convened at least once every two years to review the existing rates. The objective is to raise the rates to the mainland level as rapidly as is economically feasible without reducing job opportunities.

Industry Committee #16, appointed by the Secretary, held public hearings in April 1984 to review the minimum wage rates in American Samoa. At the conclusion of the hearings, higher minimum wage rates were established for all industries. The increases affected more than 3,500 employees engaged in nontraditional government activities. The minimum wage increases affected some 15 industry groups covered by FLSA.

Migrant and Seasonal Agricultural Worker Protection Act

The Migrant and Seasonal Agricultural Worker Protection Act (MSPA), which replaced the Farm Labor Contractor Registration Act (FLCRA), effective April 14, 1983, provides important worker protections to migrant and seasonal agricultural workers, including vehicle safety, housing safety and health requirements, disclosure of wages, hours and working conditions, maintenance of necessary records and provision to workers of itemized information concerning pay and withholding. MSPA covers employees of farm labor contractors, as well as those employed by fixed situs employers such as farmers. MSPA requires farm labor contractors to register with the Department of Labor and to comply with all the provisions of the Act, unless statutorily exempt. During fiscal 1984, there were 12,500 registrants (including 9,400 farm labor contractors and 3,100 farm labor contractor employees) who employed approximately 375,000 crew members.

The Wage and Hour Division conducted 5,273 MSPA compliance actions during fiscal 1984 which resulted in civil money penalties totaling almost $900,000 assessed against violators. In addition, there have been 190 revocations, refusals to issue and refusals to renew farm labor contractor certificates of registration.

MSPA also prohibits a farm labor contractor from knowingly employing illegal aliens. In enforcing this provision, the Wage and Hour Division works closely with the Immigration and Naturalization Service. In fiscal 1984, 164 farm labor contractors were cited for employing a total of 1,398 illegal alien workers.

A number of investigations which evidenced possible criminal violations of other statutes were referred to the Justice Department in fiscal 1984.

The National Farm Labor Coordinated Enforcement Committee and regional coordination committees, comprised of representatives of the regional and national offices of the Employment Standards Administration, the Employment and Training Administration, and the Occupational Safety and Health Administration, continued to coordinate programs and services that have impact on migrant and seasonal agricultural workers.

Prevailing Wage Laws

Government contract enforcement concentrated on complaints alleging violations of the various laws that provide labor standards for employees performing government contract work. During fiscal 1984, 4,117 investigations were conducted under the Davis–Bacon and Related Acts, the Service Contract Act, the Contract Work Hours and Safety Standards Act, and the Walsh–Healey Public Contracts Act. Back wages found due to 44,803 workers under the provisions of these laws totaled $26 million. Employers agreed to pay $19 million of these back wage amounts to 38,697 workers. Additional monies were to be restored upon completion of administrative hearings or litigation action.

Pursuant to the Davis–Bacon and Related Acts, 11,052 prevailing wage determinations were issued during the fiscal year. Of this total, 1,074 were general determinations published in the *Federal Register* which apply to many construction contracts in a given geographic area, and 9,980 were issued for specific construction projects.

Various alternatives for improving the collection of wage data used in making Davis–Bacon wage determinations continued to be explored.

The U.S. Court of Appeals for the District of Columbia Circuit, on July 5, 1983, largely reversed a District Court ruling which had enjoined certain major provisions of the Department's May 1982 revised Davis–Bacon regulations. On January 16, 1984, the U.S. Supreme Court denied review of the Appeals Court decision. The Department intends to implement these regulations in accordance with the Appeals Court decision. When fully implemented, the revised regulations are expected to result in an annual savings of several hundred million dollars to Federal agencies and contractors.

The Wage and Hour Division issued over 3,500 determinations of prevailing wages and fringe benefits for a wide variety of job classifications under the Service Contract Act. These wage determinations apply to approximately 34,000 contracts.

On January 27, 1984, the U.S. District Court for the District of Columbia upheld the Department's revised Service Contract Act regulations published October 27, 1983, in a suit filed by the AFL–CIO and individual unions. The AFL–CIO has appealed that decision.

Youth Employment Opportunity Wage

On May 17, 1984, President Reagan submitted to the Congress, the "Youth Employment Opportunity Wage Act of 1984." The bill was designed to increase the employment opportunities for young people by establishing a special minimum wage for them during the summer months. The bill provided that employers could pay youths under 20 years of age 75 percent of the Federal minimum wage, or $2.50 per hour, whichever is less, during the period May 1 through September 30. It would also have prohibited any employer from discharging, transferring, or demoting any other employee in order to hire a worker at the youth wage.

Federal Employees' Compensation

The Federal Employees' Compensation Program in fiscal 1984 was directed toward the early return of claimants to suitable employment as the key to its long-term case management. By fully implementing its case management process, relying on early specialist referral and job search for partially disabled claimants, FECA encouraged agencies to identify and promote job opportunities for recipients. As a result, several Government agencies responded to OWCP outreach programs by entering into agreements to rehabilitate and reemploy their former employees.

The Division also negotiated an agreement with the Office of Personnel Mangement to share in the Federal Personnel Manual issuance series, and to support an advanced training course for agency compensation specialists, in order to speed and improve the presentation of employee claims.

Under a major interagency agreement with the Army Materiel Command, to run until March 1985, the Division has been training 9,400 first-line supervisors in compensation claims processing. The Division also assisted the Departments of the Treasury and Agriculture, the Social Security Administraton, and other agencies to design national compensation programs which will improve service to employees. Within the Employment Standards Administration, a Model Compensation Program has been developed to standardize claims processing, including training of regional compensation coordinators and first-line supervisors.

OWCP increased the use of accountability review teams and programwide quality control measures. District offices are required to demonstrate that they are staffing and performing a wide range of quality control functions, and program performance analyses are provided regularly to district office managers. Two regions are testing the concept of a decentralized hearing function, with hearing examiners based in the regional city and covering several States, to determine whether timeliness is served by decentralization.

The Division introduced and delivered a new comprehensive claims examiner course to claims examiners nationwide. In addition to techniques of claims adjudication, the new course addresses caseload management and efficient case processing.

OWCP made significant and far-reaching changes in the accounting procedures it uses in the FECA program to charge Government agencies for the amount of expenses incurred by the program on their behalf. Specifically, this chargeback process was modified to establish a uniform system for agencies to track injury costs to specific agency installations; procedures were also established for resolving disagreement concerning chargeback billing and to establish coding procedures which conform with Federal injury reporting requirements. In addition, basic data on employee claims from the automated data processing system are being provided weekly to the U.S. Postal Service and daily to the Tennessee Valley Authority.

Longshore and Harbor Workers' Compensation

In fiscal 1984, the Division continued its efforts to ensure timely payment of benefits and provision of medical services to injured workers in the maritime industry and under other related acts. The district offices reduced the inventory of cases awaiting action by approximately 16 percent during the year. More timely case processing action was achieved in the following areas: processing controverted claims, completing informal conferences, issuing conference memoranda and responding to inquiries. More than 6,700 informal conferences were held by the Division's district offices for cases requiring resolution of disputed issues.

In September 1984, extensive amendments to the Longshore Act were enacted by Congress, the first amendments since 1972. The amendments clarify and limit the Act's jurisdiction, make changes in benefits, permit debarment for cause of medical providers and claimant representatives, establish a method of providing benefits for victims of covered occupational diseases, and include other reforms. In several instances, penalties for fraudulent actions are increased. During fiscal 1985, a major effort for the Longshore Division will be the promulgation of implementing regulations and procedures and the development of an extensive technical assistance program directed toward education of the affected maritime industry and workers.

Black Lung

The Division of Coal Mine Workers' Compensation continued the decentralization of the program during fiscal 1984. Approximately 27,000 Part B denial claims reviewed in the Johnstown District

Office under the 1977 amendments to the law were transferred to district offices closer to claimants' homes. The Division is also completing the decentralization of Medical Benefits Only claims to district offices closer to claimants.

In addition, district office functions will be expanded to include adjudication of Certificates of Medical Necessity (CMN), needed to approve durable medical equipment, including home oxygen, home nursing services, and pulmonary rehabilitation treatment. The district offices will begin the review and processing of medical determination billing prior to authorizing payment to improve the quality of the tests, to increase timeliness, and control those related costs. An accountability review program, expanded in fiscal 1984, includes an annual review of every district office.

During fiscal 1984, the Division received 8,220 new claims and 4,114 refiled claims. Decisions were made on 13,497 claims. At the end of the fiscal year there were 5,576 claims pending an initial decision. The Division also held 2,644 informal conferences and forwarded 10,010 claims to the Office of Administrative Law Judges for formal hearing. The Office of Administrative Law Judges returned 5,435 claims to the Division, where the decisions and orders were reviewed and necessary actions taken. Additional workload included maintenance of approximately 110,000 Medical Benefits Only claims, 91,836 Trust Fund monthly benefits claims, 5,969 claims in interim pay pending a formal hearing, and 3,106 claims in which responsible mine operators were paying monthly benefits.

As a result of debt collection activities, the Black Lung division recovered over $16.5 million from responsible mine operators, insurance carriers, beneficiaries and medical providers. Approximately $595 million was paid in benefits to coal miners, eligible survivors, and medical providers. Of this amount, approximately $444 million was paid to miners and their survivors as monthly benefit payments.

Vocational Rehabilitation

The Division of Vocational Rehabilitation continued its efforts to provide timely, high quality vocational rehabilitation services during fiscal 1984.

Procedures were improved for the return to work of those injured under the Federal Employees' Compensation Act by increasing coordination between the OWCP rehabilitation specialists and FECA claims examiners.

The Division developed new policies, procedures, and forms to assist OWCP rehabilitation specialists in managing State and private sector rehabilitation counselors. These counselors are paid by OWCP to provide testing, evaluation, counseling, guidance, placement and followup services to injured Federal workers. The new procedures prescribe the process by which counselors are recruited and selected, trained, used for referrals, evaluated and developed, and terminated.

During the year, 695 injured Federal workers were rehabilitated under the Federal Employees' Compensation Act, saving more than $11,500 per worker in compensation costs. Total savings for the year were $8 million in compensation costs.

Also in fiscal 1984, 311 workers in the private sector were rehabilitated under the Longshoremen's and Harbor Workers' Compensation Act, saving more than $10,000 per worker in compensation costs. Total compensation costs saved for the year were $3 million.

Fraud, Waste, and Mismanagement

During fiscal 1984, OWCP continued its efforts to reduce fraud, waste, and mismanagement. In the Federal Employees' Compensation Program, standards for the development and adjudication of claims and effective case management have been enforced to assure that claims are processed in a timely manner and in accordance with the laws and regulations. The investigation of questionable claims through the use of Wage-Hour and OFCCP compliance officers has been successful in reducing the number of claimants on the rolls who are no longer eligible for benefits.

The Division of Coal Mine Workers' Compensation participated with the Social Security Administration in computer matching to ensure integrity of monthly benefits payments to black lung beneficiaries. The Division continued to work closely with the OIG on active investigations, in several regions, of some medical providers and others suspected of fraud by the Division.

To address issues of security and loss vulnerabilty in the Federal Employees' Compensation program, a Fraud Awareness and Sensitivity training course was developed, with the cooperation of the Office of Inspector General, and delivered to field office managers. Regulations permitting the program to exclude medical providers convicted of fraud against Government programs and other abuses were completed in May 1984, and procedures for identifying such abuses were distributed to the regions. Regulations to control medical costs in the program, by application of a schedule of maximum fees for numerous medical, surgical and laboratory services, were published for comment in the *Federal Register* in June 1984. Procedures to regularize the procurement of medical services by OWCP by placing regular medical consultants under contract were put in place in January 1984.

A match of FECA records against Office of Personnel Management records identified a significant number of persons who had received prohibited dual payments for periods of time, and collecting the overpayments was begun by each agency. They will conduct regular semi-annual matches of their beneficiary rolls.

The Division of Coal Mine Workers' Compensation began implementing procedures for improving security to minimize fraud within the claims process, as well as conducting periodic audits which will ensure the integrity of the benefit payment system.

Automated Data Processing Systems

Work continued throughout fiscal 1984 on the Federal Employees' Compensation Level II automated data processing system, which is scheduled to be fully operational in all district offices by the end of fiscal year 1986. A contract for this major new system was awarded in fiscal 1984, and an Employment Standards Administration project team was assembled to supervise and review contract deliverables. Ultimately, the system will provide ADP support for all of ESA's major programs. Initially, it will integrate FEC's payment and case monitoring system, automate various fiscal functions, reduce manual processing of medical payments, and provide automated support for a wide range of claims adjudication, medical services, and rehabilitation activities. The system will require new organizational patterns, which are being developed through a series of work groups, with field office participation.

As work on Level II continued, the Level I automated system which has been in use for several years was enhanced to provide better tracking of cases in which OWCP might be able to recover compensation costs from liable third parties; to provide automated identification and retirement of inactive cases, and to provide payment of benefits on a cycle coordinated with the Federal pay cycle.

Similarly, the Longshore program also made progress toward automating its district office operations. At year's end, a case management system was under development which will provide automated case review, case tracking and word processing capability. The system is scheduled to be pilot tested in a district office in fiscal 1985, and is expected to be fully operational in fiscal 1986.

The National Office of the Longshore Division implemented a Special Fund automated data processing enhancement in fiscal 1984 to calculate second injury retroactive benefits, speeding up the previously time-consuming process and ensuring greater accuracy.

The Black Lung Program's contractual agreement for its current automated claims information and benefit payment system expires at the end of fiscal 1985. During fiscal 1984, the Division developed a procurement plan and requests for information and proposals for the major services contract which will provide ADP support commencing in fiscal 1986. To fulfill the program's obligations under the current contract, continuing in-house audits have been conducted on the contractor's bill payment methods for both in-hospital and outpatient claims for consistency with program policy and procedures.

Office of State Liaison and Legislative Analysis

The Division of Legislative Analysis developed testimony and background information for ESA officials who appeared at hearings before committees of the Senate and House of Representatives. It played an active role in providing technical assistance to the Congress on the Longshore and Harbor Workers' Compensation Act Amendments of 1984. The Division participated in the development of the youth employment opportunity wage legislation proposed by the Administration, and monitored and prepared notes on Congressional action on immigration reform and other program areas of interest to ESA. The Division also developed issue papers for legislative decisions and regulatory materials required under Executive Order 12291.

The Division of State Employment Standards Programs furnished expertise to ESA on State labor standards legislation, regulations and programs, and on issues which impact on, or are affected by, all ESA programs except workers' compensation. In order to promote improved Federal/State coordination of similar programs, the Division developed considerable information on State employment standards relating to minimum wage, prevailing wage, industrial homework, child labor, and affirmative action requirements for employment of handicapped persons. The Division is compiling information on State prevailing wage laws.

The Division provided technical advisory assistance and information on numerous labor standards subjects in response to over 400 requests from State labor departments, management organizations, multi-State employers, organized labor, other Federal agencies, the Congress, and others. Throughout the year, the Division maintained active working relationships with State governmental labor officials and their organizations. It analyzed some 850 new State labor laws and published summaries of approximately 300 of these.

The Division of State Workers' Compensation Programs provided technical assistance to State workers' compensation agencies on information systems, administration and rehabilitation. Fifteen State workers' compensation agencies requested and received on-site technical assistance in the implementation or improvement of their information system. In conjunction with the International Association of Industrial Accident Boards and Commissions (IAIABC), the division gathered information on, and published, an in-depth profile on the administration of each State workers' compensation agency entitled *State Workers' Compensation Administration Profiles.*

The Division worked closely with six States in arranging and conducting workers' compensation conferences for educational purposes and/or to focus on issues for possible legislative changes.

As a central source of information concerning State workers' compensation laws, the Division analyzed 141 workers' compensation amendments from 1,100 proposed amendments during fiscal 1984 and prepared nine reports and analyses of State workers' compensation laws.

Mine Safety and Health Administration

The Mine Safety and Health Administration (MSHA) made special efforts to improve hazard awareness among miners and mine management as the mining industry expanded in fiscal 1984. Increasing production required extra attention to safe work practices as new mines opened, others reopened, and miners began new jobs or returned to work. About 17,000 more miners were employed in the first 9 months of calendar 1984 than in the same period of calendar 1983.

Mining fatalities numbered 163 in fiscal 1984. This represented an increase from the record-breaking low of 131 in fiscal 1983, but remained far below fatality figures in earlier years. There were 244 mining deaths in fiscal 1980, 222 in fiscal 1981, and 237 in fiscal 1982.

Compared with calendar 1983, the rate of fatal injuries showed a slight increase both in coal mining and in metal and nonmetal (noncoal) mining during the first 9 months of 1984. Preliminary data indicate that the rate of all injuries declined to a new low at coal mines and increased slightly at metal and nonmetal operations.

On November 18, 1983, David A. Zegeer was confirmed as assistant secretary of labor for mine safety and health. He replaced former Assistant Secretary Ford B. Ford, who had become Under Secretary of Labor.

Under the direction of Assistant Secretary Zegeer, several new programs were started to promote hazard awareness in the mining industry. Inspectors made special mine visits to warn of increases in certain types of fatal accidents and to discuss safe practices with the management and miners. For use in industry's training programs, graphic depictions of all fatal accidents since Jan. 1, 1983, were made available free of charge in 35-mm slide format. New training materials for supervisors and foremen were developed and distributed.

With the support of industry groups, labor and other government agencies, MSHA sponsored a new program to reduce coal mine fatalities and injuries due to roof falls—historically, the most frequent cause of fatal accidents in the coal mines. Training materials on safe ventilation practices to prevent explosions also were distributed to the coal mining community.

MSHA worked with other industry groups to produce audiovisual training materials for cement workers and on-the-job training guides for the sand, gravel and stone industries.

Besides these new efforts, MSHA maintained several special emphasis programs that focus on high-hazard operations.

The agency stressed cooperation and communication with management, labor, and State agencies as the best means to reduce mining injuries and illnesses. Among other meetings and conferences with industry and labor, MSHA sponsored a symposium on controlling respirable dust, the most serious health hazard in coal mining. It was the first national conference on the subject since Congress enacted limits on coal mine dust levels.

Several projects to review MSHA regulations continued in fiscal 1984. A new final rule updated and consolidated standards for wire ropes that are used to hoist miners or to hoist materials where personnel could be endangered. Major reviews progressed on eight groups of metal and nonmetal mine safety and health standards, and on underground coal mine safety regulations.

Coal Mine Safety and Health

During fiscal 1984, MSHA oversaw coal miners' safety and health at 1,904 underground mines, 2,092 surface mines, and 985 other surface facilities under the agency's jurisdiction. Coal mine employment and production both were on the increase during the fiscal year.

Coal mine inspectors, technical specialists, education and training specialists, and supervisors operated from 10 district offices, 18 subdistrict offices, and 68 field offices. At the end of fiscal 1984, the coal mine safety and health work force numbered 1,720.

During fiscal 1984, MSHA made 77,114 coal mine inspections and investigations. Of these, 55,230 were at underground mines, 13,699 at surface mines, and 8,185 at other surface facilities.

MSHA inspectors issued 111,080 citations and orders to coal mine operators and independent contractors for violations of safety and health regulations. Supervisory officials held 2,120 health and safety conferences to discuss inspectors' findings at the request of mine operators or labor representatives.

After a rise in some types of accidents during early 1984, MSHA took steps to alert the coal industry to these trends and urge extra caution. On June 12, the agency suspended its regular activities in four Appalachian districts so inspectors, supervisors and specialists could make special visits to the underground mines in their areas. They talked with both management and miners about safe work practices, especially in roof control and use of explosives.

On July 26, more than 800 inspectors and training specialists made similar visits to surface coal operations throughout the nation. They inspected all rubber-tired haulage equipment and discussed haulage safety with equipment operators, supervisors and maintenance personnel.

MSHA investigated 181 complaints of safety- or health-related discrimination that coal mine personnel filed with the agency during the fiscal year. The agency also opened 61 investigations into possible knowing or willful violations of coal mine safety or health regulations.

Coal mining fatalities numbered 90 in fiscal 1984, up from the record-breaking low of 76 in fiscal 1983, but fewer than in previous years, when coal mine fatalities had always exceeded 100. The fatality rate also increased slightly; in the first 9 months of calendar 1984, it was 0.05 per 200,000 employee-hours compared with 0.04 in all of calendar 1983.

However, the rate of all coal mining injuries declined from the historical low of 6.87 per 200,000 employee-hours in calendar 1983 to 6.69 in the first 9 months of calendar 1984 (preliminary data).

Two coal mine accidents attracted national attention during the fiscal year. On February 16, 1984, a methane explosion killed three miners at the Greenwich Collieries No. 1 Mine, Indiana County, Pa. At the fiscal year's end, MSHA's investigation into the cause of the explosion was continuing.

On September 12, 1984, four miners were killed and two others injured in a roof fall at the Berger No. 2 Mine, Bon Trucking Co., Inc., Evarts, Ky. MSHA investigators found violations of the Berger No. 2 Mine's approved roof control plan. Besides the four annual inspections required by law, MSHA now makes monthly inspections at all coal mines in that area where a similar mining method is used.

Of the 90 coal mine fatalities in fiscal 1984, 31 were due to falls of the roof, face or ribs (walls) in underground coal mines. Historically, such accidents are the most frequent cause of coal mine fatalities. In April 1984, MSHA announced a new program titled Roof Evaluation—Accident Prevention (REAP).

Several industry and labor organizations and State and Federal Government agencies joined MSHA in sponsoring the REAP program, with the goal of reducing deaths and injuries due to roof falls. As part of the program, MSHA inspectors increased their emphasis on safe roof control practices. The agency also distributed technical information and training aids on roof control.

Emphasis also was placed on proper ventilation to keep explosive methane gas from building up in underground workings. MSHA provided new training materials on ventilation to underground mine operators.

MSHA's Nonfatal Days Lost (NFDL) accident reduction program included 225 coal mines during its 1984 operating year

(July 1983 through June 1984). The mines chosen for this program had injury incidence rates above the average for their district or the Nation. MSHA offers special help in eliminating the underlying causes of accidents at each mine in the NFDL program. Success depends on the active participation of management, miners and their representatives.

During fiscal 1984, about 67 percent of the mines in the NFDL program succeeded in reducing their injury rates. MSHA conducted an annual review of the program to improve its effectiveness.

In fiscal 1983, MSHA started a program to improve compliance with respirable dust standards in mining sections where these standards had repeatedly been violated. In fiscal 1984, the program's goals were expanded to include reducing uncorrected violations.

In conjunction with other Federal agencies, MSHA developed a new course on noise control in coal mining. Offered at the National Mine Health and Safety Academy, the course will be open to coal mine inspectors and industry.

Metal and Nonmetal Mine Safety and Health

In fiscal 1984, MSHA's Metal and Nonmetal Mine Safety and Health activity was responsible for promoting safety and health at about 730 underground mines and about 12,600 surface mines, quarries, sand and gravel operations, and mineral mills. Activity was on the increase in some types of metal and nonmetal mining during the fiscal year.

Metal and nonmetal mine inspectors and specialists operated from 6 district offices, 12 subdistrict offices, and 53 field offices throughout the Nation. The activity's workforce numbered 582 employees.

During the fiscal year, 12,396 complete regular inspections were made at metal and nonmetal mines and mills. Another 962 regular inspections were made at mines that were not actively producing—for example, operations with only a crew performing maintenance work.

Metal and nonmetal mine inspectors issued 19,639 citations and orders during the fiscal year. Inspectors made 4,763 compliance followup inspections to check for correction of violations that had previously been cited.

About 1,900 other inspections were made at gassy mines (mines that liberate explosive methane gas), at electrical installations, at mines using hoisting equipment, and during shaft sinking.

At the request of management or labor, 415 health and safety conferences were held with supervisory personnel to discuss inspectors' findings in about 1,500 citations and orders.

Metal and nonmetal mine training specialists conducted about 1,500 classes, meetings and visits to mine sites during the fiscal year.

During the week of August 13 to 17, MSHA conducted a special program of safety visits to metal and nonmetal surface mines. More than 300 inspectors, training specialists and other officials visited mines throughout the country to call attention to an increase in fatalities, check for safety violations, and discuss safe work practices with management and miners.

Special investigations were made in response to 42 complaints of safety- or health-related discrimination and 87 possible knowing and willful violations. Enforcement personnel also made 239 inspections or investigations in response to hazard complaints.

Metal and nonmetal mining fatalities numbered 73 in fiscal 1984. This figure represented an increase from the record-breaking low of 55 in fiscal 1983, but was lower than in any earlier fiscal year.

The fatal-injury incidence rate was .04 per 200,000 employee-hours for January-September 1984, compared with .03 for all of calendar 1983. The rate of all injuries also increased slightly, from 4.36 in all of calendar 1983 to 4.45 in the first three quarters of calendar 1984 (preliminary data).

Two special emphasis programs continued during the fiscal year. The Program in Accident Reduction (PAR) included 57 operations with injury rates significantly higher than the national average. Mines in the PAR program received extra consultative help with safety programs, job safety analysis, accident prevention, and safety awareness. Between October 1983 and June 1984, PAR operations achieved a 22-percent reduction in lost workday injuries and a 28-percent reduction in their injury incidence rate.

Compliance Assistance Visits (CAV's), started in 1980, also continued in fiscal 1984. At the operators' request, inspectors made 1,606 consultative visits to mines that were opening for the first time, resuming operations, opening new sections, or installing new equipment. On CAV's, inspectors issued 9,522 notices of violation, which carried no penalties. Citations are not issued on these visits. On the next regular inspection, inspectors check to make sure any violations noted on the CAV have been corrected.

A pilot program, similar in concept to PAR but focusing on health problems, continued at its first operation. This was a silica flour plant with excessive levels of respirable quartz dust, which can cause lung disease. Dust levels at the plant were reduced, and two more operations were chosen to enter the program in fiscal 1985.

Metal and nonmetal mills and shops now use an increasing variety of chemicals, including some compounds that release potentially hazardous organic vapors. In fiscal 1984, MSHA adopted a new sampling program using activated-charcoal passive monitors to protect mill and shop workers from these hazards.

Also during fiscal 1984, properly fitted respirators and appropriate canisters were provided to all MSHA Metal and Nonmetal personnel who may have to enter hazardous mine atmospheres. A qualitative fit-testing program was set up for these personnel and also offered to industry; eight companies availed themselves of the program during the 1984 fiscal year.

As part of the Metal and Nonmetal activity's internal control program, evaluations were conducted of practices in the South Central and North Central Districts.

Assessments

The Office of Assessments assessed civil penalties for 122,599 violations during fiscal 1984, a 10 percent increase over fiscal 1983. In all, $8.7 million in penalties were assessed, compared with $6.8 million the previous fiscal year. Collections increased from $5.9 million in fiscal 1983 to $7.4 million in fiscal 1984.

Assessments continued to be promptly issued. The office reviewed all citations for consistency and completeness before issuing the civil penalty. Problem areas identified during this review received prompt attention, reducing the number of citations that needed corrective action. Proposed assessments were highly accurate.

Mine operators asked for a hearing with the Federal Mine Safety and Health Review Commission on 2,471 violations, or 2 percent of the total. This proportion represented a slight decrease from the previous fiscal year.

MSHA collected about 80 percent of the civil penalties assessed without any need for collection action. About $5.7 million in past-due civil penalties were referred to a commercial collection agency under a contract starting late in fiscal 1983. Of this total, $.7 million, or 12 percent, was collected by the end of fiscal 1984. Current penalties that become past due continue to be referred to the collection agency under a renewed contract. Penalties not collected through these efforts are referred to the Office of the Solicitor for enforcement in Federal Court.

Standards, Regulations and Variances

The Office of Standards, Regulations and Variances, which coordinates MSHA's rulemaking, continued to review major groups of mine safety and health regulations. These reviews were intended to bring MSHA's regulations up-to-date, clarify them, close gaps, remove needless burdens, and make the rulebook easier to use. The reviews were consistent with the objectives of Executive Order 12291, the Paperwork Reduction Act, and the Regulatory Flexibility Act.

To achieve its aims, MSHA worked to identify any duplicative or unnecessary standards. It sought to provide alternative means of compliance and incorporate technological advances. Other goals were to eliminate incorporations by reference and reduce operators' burden of recordkeeping and reporting.

MSHA asked for comments from the mining community at each stage of the review process. All comments were closely studied by committees charged with composing the revised regulations. These committees included experienced inspectors, engineers, and regulatory specialists.

On Nov. 25, 1983, MSHA published a final rule updating its standards on wire ropes that are used to hoist miners or to hoist materials where miners could be endangered. The new rule covers both coal operations and metal and nonmetal mine operations.

MSHA continued its review of eight priority sections in the metal and nonmetal mining standards. Proposed rules were published covering fire protection (October 4, 1983), machinery and equipment (March 6, 1984), and ground control (also March 6, 1984). Public hearings were held to discuss these proposals, and final rules were in preparation at the end of the fiscal year.

Proposed rules were being prepared on four more sections: those on loading, hauling and dumping; gassy mines; electricity; and air quality. Possible revisions of the metal and nonmetal explosives standards were offered for public comment as a preproposal draft on August 20, 1984.

A major review of underground coal mine safety standards also continued in fiscal 1984. Proposed rules were being prepared on roof support, hoisting and transportation, self-contained self-rescuers, electrical equipment and related approval schedules.

As part of the same general review, preproposal drafts were released covering explosives and blasting (May 8, 1984) and related explosives approval schedules (June 5, 1984). Preproposal drafts were in preparation concerning equipment cabs and canopies, electricity, ventilation, and oil and gas wells.

MSHA continued to review public comments on a draft rule covering approval of mining equipment, released in fiscal 1983. The draft suggested an alternate, expedited procedure under which an applicant or independent laboratory could perform required product tests. The applicant could then certify that specific technical requirements were met.

Other regulatory topics under review during the fiscal year included a 1980 proposed rule to implement "pattern of violations" provisions in MSHA's law; possible revisions of radiation standards for underground metal and nonmetal mines; standards concerned with intrinsic safety; and other product approval regulations.

Technical Support

The Directorate of Technical Support provides engineering expertise and technical assistance to other MSHA programs and the industry.

During fiscal 1984, Technical Support personnel responded to five mine emergencies involving fires, methane explosions and blasting accidents. During these emergencies, they provided engineering, analytical and logistical support for other MSHA officials.

At the request of MSHA districts, the directorate made 530 in-mine investigations during the fiscal year. Personnel also conducted laboratory investigations, field sampling and analysis. These activities were aimed at solving problems in ventilation, roof control, hazard identification, and other areas of mine safety and health.

Technical Support processed 140,194 samples of respirable coal mine dust and analyzed 26, 977 other samples to determine compliance with mandatory standards. Personnel calibrated 4,324 noise and radiation sampling instruments for inspectors.

Technical Support personnel evaluated 174 plans for mine waste impoundments that operators submitted for approval. Other investigations concerned operators' requests for permission to use automated temporary roof supports in place of canopies on underground coal mine equipment. In addition, 492 blasting plans were approved in conjunction with the Interior Department's Office of Surface Mining.

The Approval and Certification Center completed 5,808 approval actions on equipment for use in the mining industry. The Center's new facility at Triadelphia, W.Va., was completed; personnel and equipment were moved there from Beckley, W.Va., Pittsburgh, Pa., and Bruceton, Pa., with minimal disruption in the flow of work. Efforts continued to reduce backlogs of approval actions, and to work more efficiently with manufacturers to improve the testing and approval process.

The Health and Safety Analysis Center processed 122,449 injury and worktime reports submitted by mine operators. Quarterly reports were published on mining injury experience and worktime nationwide. Data were analyzed to provide information on current accident trends for MSHA officials and the industry.

Technical Support established two task forces to assist agency officials with potential rulemaking projects. One dealt with the feasibility of developing a self-contained self-rescue device that could be worn on a miner's belt. The other was concerned with the possible need for new regulations on diesel equipment in mining.

The directorate continued to work closely with MSHA's Coal Mine Safety and Health and Metal and Nonmetal Mine Safety and Health activities. In coal mine roof control, for example, personnel assisted with the training aspect of Coal's new REAP program and with research into the problem of coal mine "bumps" (sudden outbursts of coal under excessive stress). The directorate also began an evaluation of electronic minewide monitoring systems during the fiscal year.

Educational Policy and Development

During fiscal 1984, MSHA's Office of Educational Policy and Development coordinated MSHA policy on mine safety and health training. The office also supervised the National Mine Health and Safety Academy, administered MSHA's State grants program, and provided support for voluntary safety organizations.

Several new training programs and training aids were developed for the industry. They included a slide program illustrating fatal accidents since 1983, a training package for coal mine supervisors, a ventilation training program for coal mine personnel, training aids on coal mine roof control, and other materials. Several more projects were nearing completion at the end of the fiscal year: a film on rebricking cement kilns; on-the-job training guides for the stone, sand, and gravel industries; and a supervisor training program for metal and nonmetal mining.

During the fiscal year, 42 States participated in MSHA's State grants program, which funds State mine safety activities including miner training. A total of $5,387,946 was granted to States in fiscal 1984, and 105,915 miners were trained in State programs supported by the program.

The MSHA-supported, voluntary Holmes Safety Association continued to expand during the fiscal year. This organization gives management and labor an opportunity to hold safety meetings using safety materials supplied by the association. With a membership of more than 366,000 in all 50 States, the association's 3,926 chapters and 51 councils held some 89,000 meetings with a combined attendance of more than one million.

In fiscal 1984, 15,294 people took part in programs at the National Mine Health and Safety Academy for about 44,000 student-days. About half of these student-days comprised training of MSHA employees. The remainder included training of industry, labor, State and other personnel.

Programs on occupational safety and health, human relations, and communication were tailored for the specific needs of student groups. Academy staff conducted more than 7,700 hours of classroom and laboratory instruction. They taught classes both at the Academy and in the field, in or near the users' facilities.

The Academy completed two new programmed instruction books, one safety manual, five video programs, and four slide-tape programs. The publications distribution center distributed some 144,000 training programs and publications during the year.

In addition, the Academy was host to three important conferences. The Symposium on the Control of Respirable Coal Mine Dust was held October 4 to 6, 1983. Its purpose was for the mining community to share information on dust control techniques, which have advanced greatly since the last such meeting in 1969. About 250 attendees represented management, labor, equipment manufacturers, academic institutions, government agencies, and the general public.

On November 15 to 17, 1983, MSHA's second annual meeting for officials of State mine safety programs brought together 78 officials from 40 States. And on May 30 and 31, 1984, MSHA held its Third National Joint Mine Safety and Health Conference, with more than 200 participants from management, labor, government, and other sectors of the mining community.

The Labor-Management Services Administration (LMSA), which administered the Employee Retirement Income Security Act and the Labor-Management Reporting and Disclosure Act and was responsible for the Department's labor-management relations functions, was divided into three separate agencies during the fiscal year. The new agencies that now carry out the functions formerly assigned to LMSA are the Office of Labor-Management Standards, the Bureau of Labor-Management Relations and Cooperative Programs, and the Office of Pension and Welfare Benefit Programs.

Office of Labor-Management Standards

The prevention of improper or corrupt practices by the officers and representatives of labor unions or the interference with democratic procedures within such organizations continued to be of highest priority during fiscal year 1984.

The commitment to increasing the effectiveness of criminal enforcement under the provisions of the Labor-Management Reporting and Disclosure Act (LMRDA) resulted in an almost doubling of the number of people who were convicted of LMRDA violations or who agreed to pretrial diversions of their cases. This number increased from 68 to 120. Criminal charges were brought against 133 people, the highest number recorded since the passage of the Act.

The decision to expend additional resources for embezzlement investigations and compliance audits resulted in an increase of almost 600 over the previous year. The total number of such investigations and audits increased from 1,395 to 2,024.

The Compliance Audit Program (CAP) identifies and concentrates resources on those situations most likely to involve major criminal and civil violations of the LMRDA. Through the use of CAP the number of local audits conducted rose from 983 last year to 1,604 this year. Embezzlement cases remained about the same as last year.

OLMS conducted 15 audits of international and national unions using the International Compliance Audit Program (I-CAP), a method similar to the CAP program. The national office completed 7 audits under this program, with 1 audit in progress at the end of the year. Field offices completed 8 such audits. During the course of the year, 5 I-CAP cases were referred for further investigation.

The LMRDA requires that virtually all unions must file annual reports with the agency. There were 46,907 labor organizations with reports on file at the end of the fiscal year, a decrease of 556 from the previous year.

The agency received 213 election complaints during the fiscal year, and filed civil actions on 44 of these. The year was unique because of the number of complaints involving national or international unions, and significant intermediate bodies. Investigations led to voluntary compliance in several cases including the American Postal Workers Union and International Typographical Union. In addition, legal action by the Secretary resulted in supervised remedial elections for national officer positions of the National Education Association; the Sailors Union of the Pacific; and the National Association of Postal and Federal Employees.

As the year ended, a nationwide investigation of the election conducted by the National Maritime Union was nearing completion. Also in progress were supervised elections for the American Postal Workers Union; for the 225,000 member Local 1000, American Federation of State, County and Municipal Employees (Civil Service Employees Association, New York State); for the Progressive Mine Workers; and for the 10,000 member Union of Telephone Workers.

In the federal sector, supervised elections were conducted for the two northeastern districts of the American Federation of Government Employees, centered in Boston and New York City.

Review and analysis were conducted of the officer election procedures of 36 national, intermediate, and local unions. OLMS provided advice and assistance for union compliance with titles I, III and IV of the LMRDA, and responded to 334 written, telephone, and walk-in inquiries. In addition, preelection assistance was provided upon request to 13 national and international unions prior to and during the conduct of their officer elections.

A 900-page supplement to the *Union Officer Elections and Trusteeships Case Digest* was published. The supplement contains summaries of 754 court and administrative cases resulting from the enforcement of the election and trusteeship provisions of the LMRDA from 1978 through 1982. Later cases will appear in a subsequent supplement which is currently being prepared.

Bureau of Labor-Management Relations and Cooperative Programs

In response to continued national interest in improved industrial productivity and less adversarial labor relations, the Department, in May 1984, established the Bureau of Labor-Management Relations and Cooperative Programs (BLMRCP) as a separate organization within the Office of the Under Secretary. The Bureau had previously carried out its efforts to promote cooperative labor-management programs as an office within the Labor-Management Services Administration.

The Bureau served as the focal point for the Federal Government's efforts to encourage the growth and development of quality of worklife and employee involvement programs. It gathered and analyzed information on labor-management issues and trends and carried out an extensive program of research on collective bargaining and other industrial relations issues. The Bureau also administered employee protection programs under a number of Federal laws containing provisions designed to protect employees who might be adversely affected by Federal legislation.

Cooperative Programs

During the fiscal year, the Bureau carried out a variety of activities consistent with recommendations made by three Presidentially created panels mandated to study ways to enhance productivity and to improve the competitive posture of the United States in the 1980's and beyond. Bureau programs were designed to provide labor and management practitioners at all levels and in all sectors of the economy with opportunities to receive and share information to help create a climate in which cooperative labor relations might flourish.

The Bureau sponsored or cosponsored 18 conferences and symposia in conjunction with private and public organizations during the year. These conferences brought together leaders from labor and management, and third-party individuals to discuss issues related to labor-management cooperation and employee involvement programs.

The Bureau issued a variety of publications including a second edition of its *Resource Guide to Labor-Management Cooperation* which lists more than 200 cooperative labor-management programs in operation throughout the country. It identifies industry, regional, and area labor-management committees and other resource centers providing information and services to a variety of quality of worklife efforts. Other publications distributed during the year included a plant closing checklist for the use of local leaders and organizations in communities facing plant closings or major layoffs. A conference report summarized the views of 25 experts in the field of labor relations on five significant issues affecting employee participation and labor-management cooperation programs.

A plant closing task force created within the Bureau designed and conducted 3-day workshops to prepare State personnel to assist workers involved in plant closings and to point out how labor-management cooperation can mitigate the problems of plant closings or layoffs. During the year, the task force conducted workshops in four States and compiled a listing of key State personnel involved in plant closings and dislocated worker activities.

The Bureau and the National Association of Broadcasters produced a series of public service radio and television spot announcements encouraging business and labor cooperation and identifying the Department of Labor as a resource for additional information. A public service magazine ad appeared in more than 25 trade and professional publications on the theme, "America Works Best When Americans Work Together."

Research and Analysis

The Bureau provided research on labor-management cooperation, productivity and technology and labor-management relations. A case study was completed of a quality of worklife agreement between the American Telephone and Telegraph Company and the Communications Workers of America at a worksite in Washington, D.C. It was part of a larger national study involving 10 sites.

Some Bureau contract research funds were used to support a study of a tripartite (labor-management-university) effort to prevent a plant closing by cooperatively adopting modern management techniques and production design. Completion of the study is expected in fiscal 1985.

Bureau staff drafted a paper on the American experience with worker participation, focusing on Federal efforts, for the Secretary and other Department executives. The paper was published as the cover article in the September 1984 issue of the *Labor Law Journal*.

Contract research funds were allocated to support a study of pay-for-knowledge compensation systems which allow for flexible work assignments and a 2-year panel study of changing practices in labor-management relations and collective bargaining.

Industrial Relations and Legislative Affairs

Through a combination of weekly reports, briefing papers, and special supplementary reports, the Secretary and other key government officials were apprised of significant developments in the industrial relations arena. While collective bargaining agreements expired during the year in such major industries as longshoring, coal, automobiles, and the postal service, the Administration adhered to its noninterventionist policy in labor negotiations.

Activities in the legislative analysis area focused on a variety of issues in labor law and related fields. As the end of the fiscal year approached, an amended version of the Labor-Management Racketeering Act neared passage as title VIII of the Comprehensive Crime Control Act. Earlier in the year, Congress enacted a bankruptcy reform law which, in part, altered the rules for rejection of collective bargaining agreements that the Supreme Court had applied in February in the *Bildisco* case.

Other legislative issues receiving attention included proposals on employee protection, industrial policy, and amendments to labor relations laws.

Bureau officials and staff also participated in departmental international labor relations activities, notably with the Working Party on Industrial Relations of the Organization for Economic Cooperation and Development (OECD). A Bureau official representing the United States at the January 1984 meeting of the Working Party was elected a vice-chairman of that body. Various background and position papers were prepared in connection with program activities of both the OECD and the International Labor Organization (ILO).

As part of a cooperative agreement reached in 1979 with the Israeli Ministry of Labor and Social Affairs, two Israeli citizens received plant level training in labor-management relations at a Westinghouse Corporation plant. A Bureau official was cochairman of the Workshop on Labor-Management Relations during a conference in Jerusalem sponsored jointly by the Department and the Israeli Labor Ministry.

Employee Protections

The Bureau administered legislatively mandated programs that provide protections to workers who suffered by the expansion of the Redwood National Park or by federally financed mass transportation grants. These activities included certifying more than 1,200 arrangements developed to protect employees affected by urban mass transportation grants made by the Department of Transportation under the Urban Mass Transportation Act of 1964.

Regulations to implement first-right-of-hire provisions of the Airline Deregulation Act were submitted to Congress in November 1983. Just before they were to go into effect a Federal court declared the employee protection provisions of the Airline Deregulation Act invalid and unconstitutional and suspended the regulations, the comprehensive listing of airline vacancies, and the distribution of vacancy listings to local State employment service agencies. A Justice Department appeal of the decision is now pending.

During the year, the Bureau reviewed and processed claims for benefits under the Redwood Employee Protection Program. The statutory benefit period for the majority of claimants under the law terminated at the end of fiscal 1984, leaving a smaller group of "older workers" with varying periods of eligibility to end not later than September 30, 1989.

Office of Pension and Welfare Benefit Programs

Celebration of the tenth anniversary of enactment of the Employee Retirement Income Security Act (ERISA) was a highlight of fiscal year 1984. In concert with this anniversary, the Secretary of Labor established the National Pension Forum, representing the first coordinated effort between the Department and various constituencies, including the Congress, the ERISA Advisory Council, and other groups and individuals, to examine the Department's history and effectiveness in administering the law and to make recommendations for improvements. In keeping with this effort to improve the administration of ERISA was the reorganization of the Office of Pension and Welfare Benefit Programs (OPWBP). OPWBP was separated from the Labor-Management Services Administration and became a separate agency reporting to the Secretary.

Designed to bring continuity to ERISA's administration, the reorganization reflects renewed emphasis in such program areas as enforcement. The reorganization gave OPWBP direct control over field offices thereby strengthening a nationwide enforcement effort. Under the revised structure, the national office continued its other ongoing programs of protecting the interests of pension plan participants and beneficiaries, streamlining the regulatory process, and eliminating unnecessary paperwork.

In specific enforcement activities during fiscal 1984, OPWBP recovered some $92 million for employee benefit plans, a 56 percent increase over the $51 million recovered the previous year. A combination of litigation and voluntary compliance effected these recoveries and corrective actions. More than $43 million was restored to employee benefit plans through litigation; over $49 million was recovered through voluntary compliance efforts. In one notable case, a negotiated settlement with a pension plan official and other defendants recovered about $23 million for nine employee benefit plans. The defendants had been sued for improperly using the assets of the plans for corporate takeovers.

Under an agreement reached in 1983, OPWBP continued coordinating investigations and examinations with the Internal Revenue Service (IRS). As a result, the total excise tax assessed by the IRS was more than $2 million.

OPWBP revised its case tracking system, initiated in fiscal 1983, for better recording of pending, closed, civil, and criminal cases. This revision facilitated OPWBP's planning, reporting to Congress, and informing the general public.

In addition to enforcement, OPWBP adopted other measures to protect the rights of participants and beneficiaries. Guidelines were developed and implemented by OPWBP, IRS, and the Pension Benefit Guaranty Corporation (PBGC) to protect the assets in pension plans during termination. These guidelines were also designed to encourage establishment and maintenance of defined benefit plans.

OPWBP clarified the requirements for information to be disclosed to participants and beneficiaries on plan terminations, stressing that the summary plan description must include such information as the benefits, rights, and obligations of participants and beneficiaries when their plan is terminated.

An important OPWBP initiative in fiscal 1984 was the development of the concept of electronic filing to relieve the amount of paperwork as well as money involved in the transmittal of ERISA annual reports from employee benefit plans to the government. A pilot project was designed to test electronic filing of reports, and an agreement was reached with the IRS to facilitate that project. Perhaps the most significant deregulatory action undertaken by the Department under ERISA was the issuance of a broad class exemption from the prohibited transactions provisions of ERISA for plans whose assets are managed by a qualified plan asset manager.

Also in 1984, OPWBP granted a record 233 individual exemptions, providing some plans and employers the flexibility to engage in otherwise prohibited transactions.

Other activities during the year included the issuance of 48 advisory opinions to explain the applicability of ERISA's requirements to specific situations, and the publication of a study on the effects of inflation and indexing on pension benefits in the 1970's.

Veterans' Employment and Training

On September 30, 1984, the Office of the Assistant Secretary for Veterans' Employment and Training (OASVET) completed its first full year as the single point of reference for all veterans' employment and training programs under the purview of the Department of Labor.

Emergency Veterans' Job Training Program

A total of 19,000 veterans were placed in training jobs leading to permanent employment under the Emergency Veterans' Job Training Act of 1983 (Public Law 98-77). The program has relieved severe long-term unemployment among Korean and Vietnam-era veterans by reimbursing employers 50 percent of starting wages, up to a maximum of $10,000, for hiring veterans for permanent jobs requiring significant training. The program is a cooperative effort of the Department of Labor and the Veterans Administration. The Veterans Administration is responsible for certifying veterans as to eligibility and for approval of training contracts as well as administering authorized funds and making payments to employers. The Department of Labor performs outreach activities, conducts public information programs, and matches certified veterans with approved employers, principally through the State Job Service System. Over $70 million of $150 million authorized was obligated to employers participating in the program during the first year. A highlight of the year was Secretary Donovan's designation of the month of June as "Hire a Vet" month. During June more than 2,000 veterans were placed in jobs under this program and the favorable publicity resulted in a spillover effect in July and August, with more than 5,000 jobs filled during the 3-month period from June through August.

Job Training Partnership Act Grants

The title IV C grant program of the Job Training Partnership Act (JTPA), which took effect October 1, 1983, was used to link the $3.7 billion JTPA delivery system with OASVET's limited resources of $9.4 million. JTPA grants were approved for virtually all the States to provide direct counseling, training, and job placement of target group veterans and to assure that such veterans receive their share of job training opportunities in other JTPA programs, including the title II projects for the economically disadvantaged and title III efforts to retrain displaced workers for new occupations. Eighty percent of the funds made available to the States and local level organizations approved by the States are programmed on a matching fund basis. In many instances, these grants provide for participation of successful veterans and veterans' service organizations as a resource for aiding unemployed veterans.

Demonstration projects that are national in scope have also been funded from title IV C funds. These include national outreach programs to special target groups such as visually impaired veterans, minority, disabled, and women veterans.

DVOP and LVER Programs

The Veterans' Employment and Training Service provided grants to States for the approximately 3,400 specialized veterans services positions located in the nearly 2,500 Job Service offices nationwide. Nineteen hundred of these specialized positions are Disabled Veterans Outreach Program specialists (DVOP's) who work not only out of local Job Service offices, but who are also outstationed in such facilities as Veterans Administration hospitals and Vet Centers. The other positions are some 1,500 Local Veterans Employment Representatives (LVER's) who make certain that veterans are given preferential assistance through the Job Service. The Job Service assisted approximately 550,000 veterans to find employment during the year.

Veterans' Reemployment Rights

The first full year in which the Office of Veterans' Reemployment Rights came under the supervision of the Assistant Secretary for Veterans' Employment and Training saw an enhancement in the program's compliance and enforcement posture. Overhead positions were converted to investigator slots, the Veterans' Reemployment Rights specialist concept was instituted at the field level, and line supervisory authority was delegated to field program managers. Previous limits on protection of National Guard and Reserve members, which limited extended training to no more than 90 days every 3 years, caused severe hardship in maintaining civilian careers and undermined the ability of reserve and guard units to maintain recruitment and retention levels. The new policy sets no fixed limit, but does require that all extended training be mandatory or required for the purposes of maintaining either unit readiness or the military occupational specialty of the individual Reservist. The Office of Veterans' Reemployment Rights advised approximately 227,000 individuals of their reemployment rights at time of separation from active duty, responded to approximately 30,000 inquiries about reemployment rights, and opened and processed about 1,700 cases involving apparent violation of the program statutes. About 97 percent of the cases were resolved amicably, that is, without litigation.

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Office of the Solicitor

The workload of the Office of the Solicitor continued at a steady pace during fiscal year 1984. The national office received approximately 25,000 cases, of which some 19,000 cases were received by the 16 field offices for litigation. More than 9,000 written opinions were issued.

Of particular note was the issuance by the Supreme Court of several significant decisions involving departmental programs and litigated by Solicitor's Office staff. In addition, the first cases to be tried under the Job Training Partnership Act (JTPA), which became law last year and replaced the Comprehensive Employment and Training Act (CETA), were litigated. Despite the expiration of the CETA statute, considerable litigation continued at both the administrative and appellate court levels.

The Solicitor's Office was instrumental in the development and drafting of several important bills which were signed into law by the President during the fiscal year, including the Retirement Equity Act.

Civil Rights

The division participated in both litigation and regulatory work involving the equal employment and affirmative action obligations applicable to Government contractors under Executive Order 11246, sec. 503 of the 1973 Rehabilitation Act, and Sec. 2012 of the Vietnam Era Veterans' Readjustment Assistance Act, as well as the nondiscrimination obligations applicable to recipients of Federal financial assistance under such laws as title VI of the 1964 Civil Rights Act, sec. 504 of the 1973 Rehabilitation Act, and the Job Training Partnership Act. These efforts were related to the problems of equal opportunity for minorities, women, qualified handicapped persons and certain veterans.

Fiscal year 1984 saw a continuation of administrative litigation in a number of significant sex discrimination cases. In addition, there were cases brought under Executive Order 11246, involving the scope of coverage, as well as handicap discrimination cases which were brought under the Rehabilitation Act. The division's federal court litigation focused on the extent to which employment records of Federal contractors can be inspected without judicial warrants, as well as on cases in which private parties sought judicial review of Office of Federal Contract Compliance Programs' (OFCCP) decisions not to prosecute specific claims of employment discrimination. Representation of the Secretary continued in cases involving direct appeals to the U.S.

courts of appeal of decisions made by the Secretary under the nondiscrimination provisions of the JTPA and its predecessor, the Comprehensive Employment and Training Act (CETA).

Trial work was completed on October 11, 1983, in *OFCCP* v. *St. Regis Corp.*, No. 78-OFCCP-1, a classwide sex discrimination case against a major wood and paper products company, which focused on the fairness of procedures used to evaluate women applicants for production jobs and presented the issue of validity of company selection methods. The division devoted substantial resources to completing preparation for resumption of the trial in *OFCCP* v. *Harris Bank*, No. 78-OFCCP-2 (remand order filed May 17, 1983), a classwide race and sex discrimination case. Work included taking depositions and conducting extensive written discovery. At the resumption of the trial next fiscal year, the Bank will present its statistical case. *OFCCP* v. *Safeco Insurance Company*, No. 83-OFC-7, was tried in conjunction with the Seattle Regional Solicitor's Office. That case involved Executive Order 11246 coverage of a construction surety and was tried and briefed under the Expedited Hearing Procedures. The Secretary's final decision in the case issued on July 31, 1984, clarified the extent to which sureties on Government construction projects are contractors or subcontractors within the meaning of the Executive order and resolved the question of whether premium amounts or default amounts determine the extent of coverage thereunder.

The division and the Department of Justice have continued to negotiate consent decrees in several cases, such as *U.S.* v. *Whitney National Bank*, No. 82-511 (E.D.La); *U.S.* v. *Commercial Lovelace Motor Freight, Inc.*, No. C–2–81–21 (S.D. Ohio); and *U.S.* v. *Kentucky Utilities*, No. 76-189 (E.D. Ky). Also negotiated and completed during the year was a consent decree reinstating Harry Myhre, Inc., a company which had been debarred for violation of the Executive order's affirmative action requirements. In addition, on December 5, 1984, agreement was concluded on a supplementary consent decree in *CWA* v. *Costle*, No. C-77—1750-AJZ (N.D. Cal.), upon terms generally favorable to the OFCCP. Plaintiffs in that case had filed a motion alleging "substantial violations" of the consent decree by OFCCP.

Substantial time was also expended by the division on *WEAL* v. *Bell*, No. 83-1516 (D.C. Cir. Sept. 14, 1984), a defensive case originally brought in 1974, which concerns the propriety of the Department's methods for enforcing Executive Order 11246 with regard to sex discrimination at institutions of higher education. Present case activity stems from the district court's modification, without the affected agencies' consent, of a 1977 Consent Decree with the Women's Equity Action League. Both the Department and the Department of Education appealed this modification to the

D.C. Circuit. The court of appeals remanded the case to the district court for consideration whether, in harmony with the case or controversy limitation articulated in the recent Supreme Court decision in *Allen* v. *Wright*, ___ U.S. ___ , 52 U.S.L.W. 5110 (July 3, 1984), and other relevant decisions, the action could proceed.

We continued to assist the Department of Justice in the litigation of *United States* v. *New Orleans Public Service, Inc.*, No. 83-3097 (5th Cir.), a case involving the Government's right to conduct a compliance review under the Executive order and to inspect employment records of utility companies which are Government contractors. Nearly a decade of work on this matter has resulted in a determination that companies that provide utility service to the Federal Government are bound by the nondiscrimination and affirmative action obligations of Executive Order 11246 and has also established the criteria under which an inspection of records during a compliance review can be undertaken in order to satisfy the reasonable search requirements of the Fourth Amendment. The division also participated in efforts to negotiate settlement of four Executive order matters at the prelitigation stage and prepared numerous opinions for OFCCP.

A significant portion of the division's appellate litigation involved the Rehabilitation Act of 1973, in particular OFCCP's ability to choose which cases will be brought for administrative enforcement. The division was successful in arguing that the Director of OFCCP and the Solicitor have a broad scope of discretion in determining which cases have merit and should be prosecuted. The favorable decisions received in the courts of appeals should enable OFCCP to more effectively channel its resources into investigating and prosecuting cases, rather than continually defending its decisions not to prosecute. The most notable of these cases is *Presinzano* v. *Hoffman-LaRoche, Inc.*, No. 83-5176 (Feb. 2, 1984), in which the Third Circuit adopted our view that the Department has wide discretion whether to sue under the Rehabilitation Act and that, even if a violation is found, the Director is free to decide not to initiate administrative or legal proceedings. The court noted that, if prosecutorial decision is reviewable at all, the record for review is sufficient if it contains a "statement of reasons" for the decision.

Another significant issue presented for review concerned the interrelationship between sec. 503 of the Rehabilitation Act and other statutes which permit Federal agencies to establish physical and mental requirements for persons employed in certain fields involving public safety. In *Costner* v. *United States*, 720 F.2d 539 (Nov. 9, 1983), the Eighth Circuit upheld our position that OFCCP acted in accordance with law when it deferred to Department of Transportation regulations which exclude persons with histories of epilepsy from operating commercial vehicles in interstate commerce.

The division was also successful in several district courts in defending challenges to OFCCP's actions with respect to handicap discrimination complaints brought under sec. 503. Favorable decisions were received in *D'Amato* v. *Wisconsin Gas Co.*, No. 83-C-0107 (E.D. Wis. Nov. 16, 1983), and *Philip Morris, Inc.* v. *John Block, et al.*, No. 83-0671-R (E.D. Va. March 18, 1984). These cases involved failure by the plaintiffs to exhaust administrative remedies prior to filing suit. In two other cases, challenges to the Director of OFCCP's decisions not to extend the 180-day complaint filing time were rejected and the Director's decisions upheld as appropriate exercises of discretion. *Roddy* v. *Shong*, No. C83-762 (N.D. Ohio Nov. 3, 1983), and *Gummalauskas* v. *Bluestein*, No. 83-C-2811 (N.D. Ill. May 3, 1984).

In *Pace* v. *Donovan*, No. 83-3911 (D.D.C. July 9, 1984), the district court granted our motion for summary judgment and held that the plaintiffs had failed to establish that OFCCP's decision not to proceed on their complaints was an arbitrary and capricious use of prosecutorial discretion. Motions to dismiss or for summary judgment have also been filed in the cases of *Michael Taylor* v. *OFCCP*, No. 83C-4940 (N.D. Ill.); *Sckolnick* v. *Department of Labor*, No. 84-0042-F (D. Mass.); *Communication Workers of America* v. *Donovan*, No. 84-2779 (S.D.N.Y.); and *Healy* v. *Bergman*, No. 83-0219-F (D. Mass.), all of which involved individual challenges to OFCCP's "no violation" determinations in individual sec. 503 cases.

In a proposed enforcement case against a major rail transportation company for rejection of qualified handicapped applicants for employment, we identified 38 victims and calculated back pay owed to each individual based upon the wages earned by other individuals hired for the positions from which the victims were rejected, less the victims' interim earnings, and settlement discussions were begun. The division was also responsible for handling appeals to the Deputy Under Secretary, Employment Standards Administration, from Recommended Decisions issued by administrative law judges in Rehabilitation Act cases. Virtually all of these cases have presented complex, and often novel, issues. For example, in *OFCCP* v. *Norfolk & Western Railway Co.*, No. 80-OFCCP-14 (Dec. 16, 1983), the division briefed the issue of "dual motive" discharges, which are instances in which an employer had both permissible and illegal discriminatory motives for its action.

Division staff worked closely with the Department's Office of Civil Rights (OCR) in preparing two significant regulatory proposals. A proposed rule to implement the 1978 amendments to sec.

504 of the 1973 Rehabilitation Act, covering nondiscrimination on the basis of handicap in programs conducted by the Department, was submitted in late summer to the Department of Justice for prepublication clearance. The second proposal, a comprehensive revision and updating of the rules governing nondiscrimination in programs funded by the Department, is undergoing final clearance before submission to the Justice Department. In addition, we have provided substantial legal guidance to OCR on the enforcement of the nondiscrimination provisions of the JTPA, including legal review of OCR's proposed Letters of Findings in 56 JTPA "Methods of Administration" reviews. The division handled an increased number of appellate cases involving defense of the Secretary's decisions in discrimination cases under the former CETA statute. Work on this type of case increased during the fiscal year, despite the overall winding down of CETA activity. These cases, while limited to judicial review under a "substantial evidence" standard, have involved lengthy records and have increasingly involved issues under some newer statutes, such as the Equal Access to Justice Act and the Civil Rights Attorneys' Fees Awards Act.

Employee Benefits

During fiscal 1984, the division represented the Employment Standards Administration in numerous cases involving the statutes administered by that agency, including the Longshore and Harbor Workers' Compensation Act (Longshore Act), the Black Lung Benefits Act (BLBA), the Federal Employees' Compensation Act (FECA), and various statutes having employee protection provisions such as the Energy Reorganization Act of 1974. The division also participated in regulatory efforts taken with regard to FECA.

In the regulatory area, the division assisted in the drafting and promulgation of final regulations which established procedures for excluding fraudulent physicians and medical providers from participation in the FECA program. These regulations were promulgated in the *Federal Register* on May 3 (49 FR 18976). The division also assisted in the promulgation of proposed regulations which would establish a schedule of fees allowable for medical services provided to injured Federal employees; this proposal was promulgated June 7 at 49 FR 23,658.

On September 28 President Reagan approved the Longshore and Harbor Workers' Compensation Act Amendments of 1984 (P.L. 98–426). The amendments will directly impact and resolve several issues pending in the adjudication process as well as overturn the June 26 decision of the Supreme Court in *Washington*

Metropolitan Area Transit Authority v. *Johnson*, 104 S.Ct. 2827. In that case, the Supreme Court held that a contractor that provides workers' compensation insurance for its subcontractors' employees was immune from tort liability in actions filed against it by employees of the subcontractors.

During the year the division received favorable decisions in several court of appeals cases. In an *en banc* decision dated January 23, the Fifth Circuit reversed an earlier panel ruling (698 F.2d 743) and held that a Benefits Review Board (BRB) decision, which determined the proper method for computing the rate of compensation payable but remanded the case for additional findings and further proceedings, was not a "final order" and, thus, not subject to judicial review under sec. 21(c) of the Longshore Act. *Newpark Shipbuilding & Repair, Inc.* v. *Roundtree*, 723 F.2d 399, *cert. denied*, 53 U.S.L.W. 3236 (Oct. 1, 1984).

In *Randall* v. *Comfort Control, Inc.*, 725 F.2d 791 (D.C. Cir. 1984), the court held that in determining whether an injured employee has sustained a loss in his or her wage earning capacity, the administrative law judge (ALJ) must consider what effect, if any, the injury will have on the employee's wage earning capacity. The court ruled that "[t]he mere fact that post-injury wages are equal to, or in excess of, prior earnings is not determinative. . . .

Two favorable decisions involving the jurisdiction of the BRB to review supplemental default orders issued under sec. 18(b) of the Longshore Act were rendered in *Tidelands Marine Service* v. *Patterson*, 719 F.2d 126 (5th Cir. 1983), and in *Jones & Laughlin Steel Corp.* v. *Wertz*, 720 F.2d 324 (3rd Cir. 1983). In each case, the appellate court held that the United States district court had exclusive jurisdiction to review such orders and, therefore, the BRB had no jurisdiction to review default orders issued by deputy commissioners.

In *Director, OWCP* v. *Newport News Shipbuilding & Dry Dock Co.*, 737 F.2d 1295 (1984), the Fourth Circuit reversed a decision granting the employer relief under sec. 8(f) of the Longshore Act, because the ALJ failed to resolve the issue as to whether the claimant's job-related asbestosis was itself totally disabling independent of his preexisting back condition, an essential finding to the granting of relief under sec. 8(f) and the shifting of benefit payment liability to the Special Fund established by sec. 44 of the Act. The court further noted that the employer has the burden of showing that the total disability arose in part from the preexisting condition.

On May 5 the Fifth Circuit issued two favorable decisions involving the Special Fund's liability under sec. 8(f) of the Act. In *The Offshore Company* v. *Meyers and Director, OWCP*, No. 83–4604, the court rejected the employer's argument that claimant's permanent total disability was the result of the combination of his preexisting back condition and the knee injury in question. The court upheld, as supported by substantial evidence, the decision that claimant was totally disabled by the knee injury alone. In the second case, *Cactus International, Inc.* v. *Price and Director, OWCP*, No. 83–4325, the Fifth Circuit upheld the Department's position that an employer must raise sec. 8(f) as a defense during the first hearing on the claim. Here, the employer did not seek to limit its liability until after an ALJ hearing resulted in a finding that the claimant was permanently and totally disabled. In a *per curiam* opinion, the court held that ". . .it is improper for a section 8(f) claim to be bifurcated from the initial disability hearing."

The most active litigation before the courts of appeals during the year involved the BLBA program. Approximately 150 new appeals were docketed and several important decisions were issued.

Two circuit courts upheld that provision of the Secretary's regulations which states that the presumption of total disability due to pneumoconiosis may be rebutted if the "evidence establishes that the total disability or death did not arise in whole or in part out of coal mine employment." *Carozza* v. *United States Steel Corp.*, 727 F.2d 4 (3rd Cir. 1984), and *Bethlehem Mines Corp.* v. *Massey*, 736 F.2d 120 (4th Cir. 1984). Both courts ruled that provision was within the Secretary's rulemaking authority and served the broad remedial purpose of the BLBA.

In *Drummond Coal Company* v. *Freeman*, 733 F.2d 1533 (11th Cir. 1984), the court of appeals ruled that an ALJ may not reject rebuttal evidence solely because it was not expressed in terms of a "reasonable degree of medical certainty." Such rebuttal evidence, the court held, is sufficient if it constitutes "a reasoned medical judgment." The Tenth Circuit, in *American Coal Company* v. *Benefits Review Board*, 738 F.2d 387 (1984), held an award of Black Lung benefits was inconclusive as to the cause of the claimant's disability and, thus, was insufficient to establish that the cause of the disability was heart disease rather than claimant's 24 years of coal mine employment.

The Sixth Circuit, in *Director, OWCP* v. *Congleton*, 743 F.2d 428 (1984), ruled that the presumption of entitlement available to miners' survivors under sec. 411(c)(5) could be rebutted by a miner's death certificate which listed a myocardial infarction as the only cause of death and medical records of the miner's attending physician which contained no indication that the miner had pneumoconiosis. The award of benefits was reversed, because the court found that the evidence established unequivocally that the miner did not have pneumoconiosis at the time of his death.

In a case of first impression, the Third Circuit was asked to determine whether a person's postcoal mine employment was comparable and gainful work and, thus, sufficient to rebut the presumption of entitlement. *Echo* v. *Director, OWCP*, 744 F.2d 327 (1984). The court concluded that the relevant factors include: (1) relative compensation, (2) working conditions, (3) levels of exertion, (4) educational requirements, (5) location of employment, and (6) skills and abilities required. The court held that compensation is the prime criterion for comparability and that the fact that a claimant's current earnings are less than those of his fellows workers provides strong evidence that his present work is not comparable. However, if it can be established by "clear and convincing evidence" that, wholly unrelated to disability, the claimant voluntarily chose to forego a higher paying mine job for a lower paying job or for no job at all, the presumption could be rebutted.

A significant decision was issued during the fiscal year by the Supreme Court involving the FECA subrogation provisions administered by the division. In *United States* v. *Lorenzetti*, 104 S.Ct. 2284 (1984), the Supreme Court held that under the subrogation provisions of the Act (5 U.S.C. 8132), the Government was entitled to recover its disbursements, even if State no-fault laws prevented the FECA beneficiary from recovering lost earnings and medical expenses from the third party. The Third Circuit had held that, since the Government had paid the FECA beneficiary lost earnings and medical expenses, the Government was not entitled to recoup its payments in States where these specific items could not be recovered from the third party.

Shortly after *Lorenzetti* was issued, a district court vacated an earlier order denying reimbursement to the Government where the State court denied the employee the right to include lost wages and medical expenses as an element of damage sought from the third party. *Stanley Green* v. *U.S. Dept. of Labor*, No. 3-82-1282 (D. Minn. Sept. 20, 1984). The court concluded that the Government enjoys a general right of reimbursement for the FECA compensation it paid and that such right could not be defeated.

During the year, several significant decisions were also rendered concerning the interplay between the Federal Tort Claims Act (FTCA) and FECA. At issue in *Heilman* v. *United States*, 731 F.2d 1104 (3rd Cir. 1984), was whether the executors of a deceased Federal employee could sue the United States for damages based on injuries sustained by him while a Federal employee. The Third Circuit held that such an action could not succeed, because FECA is the exclusive remedy against the United States for injuries sustained while in the performance of duty. The court rejected the argument that FECA's exclusivity provision does not apply to cases involving intentional torts.

In *Williams* v. *General Services Admin.*, 582 F. Supp. 442 (E.D. Pa. 1984), the court ruled that FECA provided the exclusive remedy for plaintiff's claim that he contracted asbestosis while in the performance of his duties as a Federal employee. In *Pucci* v. *United States*, 587 F. Supp. 476 (S.D.N.Y. 1984), the court stayed an action brought under the National Swine Flu Immunization Program of 1976 to allow the Secretary to determine plaintiff's entitlement to FECA benefits. Plaintiff alleged that he was injured as the result of a swine flu inoculation administered by the Government at his place of work. Such fact, if true, would entitle him to FECA benefits and that entitlement would preclude continuation of the lawsuit under the Swine Flu Act.

The Supreme Court also issued a decision under the FTCA which could immunize the Department from liability for alleged negligent regulatory enforcement actions. In *United States* v. *S.A. Empresa de Viacao Aerea Rio Grandense* (Varig Airlines), 104 S.Ct. 2755 (1984), the Supreme Court held that the "discretionary function exception" in the FTCA applied to regulatory enforcement activities and, therefore, the United States could not be liable in tort for these activities. In a related case in which the Seventh Circuit had held the United States liable under the FTCA for the allegedly negligent enforcement of the Mine Safety and Health Act, *United States* v. *Hylin*, No. 83-1818 (Oct. 1, 1984), the Supreme Court granted the Government's petition for a writ of certiorari, vacated the judgment of the Seventh Circuit, and remanded the case for further consideration in light of *Varig Airlines*.

Employment and Training Legal Services

In fiscal year 1984 the division's litigation activities were centered in three major areas: the labor certification program, cost disallowance cases under the Comprehensive Employment and Training Act (CETA), and grantee selection cases under the Job Training Partnership Act (JTPA).

Labor certification problems generated a large number of complex and interrelated cases, some of which remained open as of the end of the year. Four of the cases were actions challenging the methodology adopted last year for establishing the adverse effect wage rate (AEWR), the wage which must be paid by employers seeking to use temporary alien labor.

In *Florida Fruit and Vegetable Association* v. *Donovan*, No. 83-8470 (S.D. Fla. March 19, 1984), the court granted the Department's Motion for Summary Judgment and affirmed the

Department's use of the AEWR methodology. The case is presently on appeal to the Eleventh Circuit Court of Appeals. However, in *Virginia Agricultural Growers Assoc.* v. *Donovan*, No. 84-1714 (W.D. Va. Aug. 27, 1984), the court, after a full trial on the merits, overturned the methodology.

The other two cases, in Vermont and Arizona, remained pending in district court at the end of the year. *Production Farm Management* v. *Donovan*, No. 84-143 (D. Ariz. Aug. 27, 1984), is particularly significant since the plaintiff challenges not only the AEWR methodology but also the underlying propriety of even establishing such a rate.

In August the 2-year litigation over the Department's procedures for determining agricultural piece rates was finally resolved. In *NAACP, Jefferson County Branch* v. *Donovan*, No. 82-2315 (D.D.C. Aug. 15, 1984), the court concluded that the Department's piece-rate regulations, adopted last year, had been issued in compliance with the Administrative Procedure Act. An earlier order entered by the district court staying the implementation of the rule was vacated by the D.C. Court of Appeals, No. 83-1919 (June 12, 1984). In another successful defense of the labor certification regulations, the court, in *Virginia Agricultural Growers Assoc.* v. *Donovan*, No. 83-108 (W.D. Va. Jan. 27, 1984), affirmed the provision in the regulations requiring growers who are using alien workers to hire any qualified U.S. workers who appear within the first half of the harvest season.

In a significant development which affects all the Department's programs relating to migrant and seasonal farmworkers, the plaintiffs moved to extend the Consent Order in *NAACP, Western Region* v. *Marshall*, No. 72-2010 (D.D.C. Aug. 3, 1984). While the court has not actually extended the Order which expired on December 31, 1983, the case is proceeding to trial on plaintiff's allegation that the Department violated its terms between 1979 and 1983.

Despite the expiration of CETA on September 30, 1983, considerable litigation continues at both the administrative and appellate court levels in both participant grievance and audit cases. Only one significant adverse decision was issued. In *Lehigh Valley Manpower Program* v. *Donovan*, 718 F.2d 99 (1984), the Third Circuit concluded that final decisions of the Department's grant officer must be issued within 120 days of the Department's learning of a potential violation of the Act. While the Department disagreed with the court's analysis, the issue remains pending in several other circuits.

Litigation under the JTPA was confined principally to the procedures for distributing funds under the Department's Migrant and

Indian programs. In *California Human Development Corp.* v. *Donovan*, No. 83-3008 (D.D.C. May 10, 1984), the court affirmed the formula adopted by the Department to distribute Migrant funds among the States. The case was on appeal at the year's end. More than a dozen actions were filed by unsuccessful applicants for Migrant and Indian grants, but the grant officers' decisions have generally been affirmed.

The division's major legislative activity was in the unemployment insurance area, assisting the Employment and Training Administration in preparing the Administration's bill to cover railroad workers under State unemployment compensation laws.

The division also worked closely with the Employment and Training Administration to complete the promulgation of regulations implementing the JTPA. Final regulations were adopted covering programs for the employment and training of Indians and other Native Americans and migrant and seasonal farmworkers, labor market information, and the Job Corps. Additionally, final regulations implementing JTPA's amendments to the Wagner–Peyser Act were adopted. The division also actively assisted the Employment and Training Administration with alien labor certification programs, particularly those governing wage rates for covered farmworkers.

The division provided legal assistance to the Assistant Secretary for Veterans' Employment and Training in the implementation of JTPA programs for veterans and in the review of the final regulations applicable to those programs.

With this division's assistance, the Office of the Assistant Secretary for Administration and Management published the proposed Department of Labor Acquisition Regulation (DOLAR). The DOLAR, when final, will effectuate the new Federal Acquisition Regulation with respect to the Department's procurement activities.

Fair Labor Standards

During fiscal year 1984, the Fair Labor Standards Division provided legal assistance in connection with the promulgation and defense of the new Service Contract Act (SCA) and Davis-Bacon regulations, and successfully engaged in major litigation at both the trial and appellate court levels.

The new regulations implementing the SCA were published on October 27, 1983, in the *Federal Register*. Their publication marked the culmination of a process extending over several years in which amendments to the existing regulations were considered. These regulations made a number of significant changes, including: (1) adoption of an interpretation limiting the Act's coverage to contracts whose principal purpose, as a whole, is the provision of services; (2) creation of exemptions for certain contracts for maintenance and repair of automated data processing or high technology equipment and certain contracts for the maintenance and repair of business machines where the service is performed by the manufacturer of the equipment; (3) clarification of the procedures for determining the applicable prevailing wage where at the time of bid solicitation the place of contract performance is unknown; (4) limitation of the application of sec. 4(c) of the Act to situations where the successor contractor performs the contract in the same locality as the predecessor contractor; and (5) guidelines indicating when contracts for major overhaul or modification of equipment are subject to the Service Contract Act or Walsh-Healey Act. The published final regulations did not include an exemption for research and development contracts and also rejected an interpretation of the Act which would limit coverage to those contracts which are performed principally by service employees, even though these provisions had been included in proposed regulations published in August 1981. The new regulations were challenged in a suit filed by several unions; however, the district court upheld the regulations in their entirety, concluding that they reflected "reasoned analysis" and were fully consistent with the language and purposes of the SCA. *AFL-CIO* v. *Donovan*, Civ. No. 83-3608 (D.D.C. Jan. 27, 1984). The case was pending appeal at the year's end.

In March the Department issued new procedural regulations, creating a Board of Service Contract Appeals to hear appeals from decisions of administrative law judges in SCA and related Contract Work Hours and Safety Standards Act (CWHSSA) cases and prescribing the rules for practice before the Board.

During the fiscal year the division also continued its defense of the new Davis-Bacon Act regulations. The D.C. Circuit had upheld the major part of the regulations in July 1983, and, on January 17, 1984, the Supreme Court denied the unions' petition for a writ of certiorari and remanded the case to the district court. *Building and Construction Trades Dept.* v. *Donovan*, 712 F.2d 611 (1983), *cert. denied*, 104 S.Ct. 975.

The division also continued its assistance in the defense and revision of the Department's rule rescinding the regulatory ban on homework in the knitted outerwear industry. The rule, issued in November 1981 pursuant to sec. 11(d) of the Fair Labor Standards Act (FLSA), was upheld by the district court but was later struck down by the D.C. Circuit on the ground that the Department had not sufficiently articulated reasons justifying issuance of the rule. *International Ladies Garment Workers' Union* v. *Donovan*, 722 F.2d 795 (D.C. Cir. 1983). The Department is presently working on a new homework rule, which should be ready for issuance next fiscal year.

In addition to its work on regulatory issues, the division was involved in a number of significant cases in the various courts. In *Donovan* v. *Simmons Petroleum*, 725 F.2d 83 (10th Cir. 1983), the Tenth Circuit approved the use of representative testimony for proving FSLA violations as well as the use of a formula for calculating the amount of back wages due when the employer has failed to keep adequate and accurate records. The opinion will be helpful in future cases where large numbers of employees and hours worked are at issue. The court of appeals, in *Donovan* v. *Flowers N'Things*, No. 83-1666 (5th Cir. Aug. 29, 1984), held that where the Department used the employers' incomplete records and other evidence to compute a reasonable estimate of the numbers and hours worked of unidentified employees, it was error for the district court to deny FLSA back wages for lack of specific proof. In *Donovan* v. *Sovereign Security*, 726 F.2d 55 (2d Cir. 1984), the Department obtained a favorable decision involving the standard for awarding prejudgment interest on FLSA back wage awards. There, the court of appeals held that the district court had abused its discretion by vacating its earlier award of prejudgment interest. The court explained that prejudgment interest should ordinarily be included in a backpay award entered in an FLSA action, because it serves the twin purposes of making employees whole for the delay in the receipt of their lawful wages and deterring employers from violating the Act in the future.

During the past year, two appellate courts upheld the Department's position that the workers involved were not "administrative employees" within the meaning of the exemption found in sec. 13(a) (1) of the FLSA. In *Donovan* v. *United Video*, 725 F.2d 577 (10th Cir. Jan. 17, 1984), the court rejected application of the exemption to microwave system engineers, and in *Donovan* v. *Fisher Sand and Gravel*, No. 83-2397 (8th Cir. April 17, 1984), the court, in an unpublished opinion, reached the same result with respect to the foremen in a sand and gravel crushing operation.

In *Skills Development Co.* v. *Donovan*, 728 F.2d 294 (1984), the Sixth Circuit issued a favorable ruling on a *National League of Cities* issue. The Supreme Court in *National League of Cities* v. *Usery*, 426 U.S. 833 (1976), had held that Federal minimum wage and overtime pay standards are unconstitutional as applied to State and local government employees who perform "traditional government functions." Thus, the *Skills Development* court held that the Tenth Amendment does not bar application of the FLSA minimum wage and overtime provisions to private corporations furnishing services to mentally retarded persons pursuant to a contract with a State. The court concluded that, because the corporations are private entities, although heavily funded and regulated by the State, application of the Act to them does not regulate the "States as States" and, therefore, does not infringe the Tenth Amendment under the test established by the Supreme Court in *National League of Cities* and subsequent cases.

In a case concerning the retail or service establishment exemption under sec. 13(a) (2) of the FLSA, the Fifth Circuit relied upon the Department's interpretive regulation to hold that a truck stop was not exempt from the Act. *Donovan* v. *Road Rangers Country Junction, Inc.*, 736 F.2d 1004 (5th Cir. 1984). The court upheld the Department's position that the sale of diesel fuel to truckers is the provision of specialized goods and services, rather than retail sales within the meaning of the FLSA exemption.

Finally, the Eleventh Circuit rendered a favorable decision in *District Lodge No. 166, International Association of Machinists* v. *TWA Services*, 731 F.2d 711 (1984), a significant SCA case in which the Department, the National Aeronautics and Space Administration, and the service contractor were defendants. There, the district court not only had held that the contract, which did not contain SCA provisions, was subject to the Act, but had upheld the Secretary's decision that the wage determination to be incorporated into the contract would be effective only as of the date of the court's coverage decision. The appellate court affirmed, ruling that: (1) plaintiff did not have a private right of action under the SCA against the employer, (2) the wages and fringe benefits paid by the employer's predecessors were not incorporated in the contract by operation of law so as to allow the union to proceed against the employer under sec. 301 of the Labor-Management Reporting and Disclosure Act, and (3) neither the law nor the equities dictated that a writ of mandamus be issued against the Secretary compelling him to issue a retroactive wage determination.

In October 1983 in *Donovan* v. *Hudson Stations, Inc.*, 26 WH cases 795 (D. Kan.), the Kansas City regional office obtained a district court ruling that the defendant oil distributor had violated the FLSA minimum wage, overtime, and recordkeeping provisions for employees at 260 gasoline stations for a 7½-year period. The court enjoined future violations and awarded back wages and liquidated damages, which will amount to some $13 million to $15 million exclusive of the awarded postjudgment interest at 10 percent. Precise back wage computations will be prepared on a formula approved by the court. Subsequent to the entry of the court's order the defendants filed a petition for bankruptcy under Chapter 11 of the Bankruptcy Code; the regional office will be participating in the bankruptcy proceeding.

The Atlanta regional office began litigation of a potentially significant FLSA case involving door-to-door sales of candy and cookies by children aged 14 to 18 years. Suit was brought against the Secretary by an individual under investigation by the Wage-Hour Administration for possible child labor violations, asserting that the children selling candy and cookies in his operation are independent contractors or, in the alternative, that they are not employed by an enterprise or engaged in commerce or the production of goods for commerce within the meaning of the Act. *Thomas* v. *Donovan*, W.D. N.C., Char. Div., Civ. No. C-C-84-290-M. The Department, seeking an injunction against violation of the child labor and recordkeeping provisions of the Act, alleged that the plaintiff is an employer of the children and that the business is subject to the Act under both traditional and enterprise coverage. In addition, the Atlanta Regional Solicitor has filed a separate sec. 17 action against the alleged suppliers of the candy and cookies contending that they are employers of Mr. Thomas and of the children. *Donovan* v. *Global Home Products, Inc.*, W.D. N.C., Char. Div., Civ. No. C-C-84-444-M. This case has been consolidated with the other suit.

Labor Management Laws

During the fiscal year 1984, the division defended the Secretary's decision to issue complaints in cases arising under the Labor-Management Reporting and Disclosure Act (LMRDA), participated extensively in the negotiation and the supervision of rerun elections, as well as litigated important issues under the Vietnam Veterans' Readjustment Assistance, the Airline Deregulation, and the Redwood National Park Expansion Acts.

The division had considerable success in defending the Secretary's position in cases arising under the LMRDA decided by the appellate courts. In four cases decided this year, the courts agreed with the Secretary that complainants had properly exhausted their internal union remedies as required by sec. 482 of the LMRDA in order for the Secretary to sue to set aside union elections because of violations of the Act. In *Donovan* v. *Local 126, International Brotherhood of Electrical Workers*, 728 F.2d 610 (3rd Cir. 1984), the court held that the exhaustion requirements had been met where a complainant had not timely raised the specific violation alleged in the Secretary's complaint in his own protest to the union, but had joined in another protest filed with the union by a member who died before he could pursue the matter further. In *Donovan* v. *Missouri Pacific System Federation Joint Protective Board of the Brotherhood of Maintenance of Way Employees*, 737 F.2d 445 (5th Cir. 1984), the Court of Appeals for the Fifth Circuit held that, although the complainant's protest to the union was broad and lacked specific information, it satisfied the statutory requirements where the union had no established procedures for an election protest and the complainant offered to provide more information if asked to do so. In another case, the Ninth Circuit also relied on the union's failure to clearly provide responsive procedures for election protest in holding that the union member's reasonable attempt to invoke internal union remedies placed the union on notice that a protest had been made and provided a sound basis for the Secretary's suit. *Donovan* v. *Sailors' Union of the Pacific*, 739 F.2d 1426 (9th Cir. 1984).

In *Sailors' Union*, the court also reached the merits of the Secretary's complaint, upholding the decision of the district court that the union's requirement of three years' membership in order to be eligible to vote or hold office violated title IV of the LMRDA.

Finally, in *Donovan* v. *Local 3122, Communication Workers*, 740 F.2d 860 (11th Cir. 1984), the court held that a technical violation of the union's procedures for protesting an election—missing an appeal deadline by two or three days—did not defeat a union member's right to complain to the Secretary concerning a violation of the LMRDA. Accordingly, the Eleventh Circuit reversed the district court's dismissal of the Secretary's action and the district court's award of attorneys' fees under the Equal Access to Justice Act (EAJA).

The division also handled several complaints filed during this fiscal year concerning officer elections held by international unions. Five of these cases resulted in a decision not to bring suit; however, in two other cases, the International Typographical Workers and the American Postal Workers Union agreed to rerun the elections under the supervision of the Secretary. In both cases, this division participated extensively in the settlement negotiations and provided legal advice throughout the supervised elections. The division also participated in the Secretary's intervention in a title I action related to the ITU election. During the course of the Secretary's investigation, one of the complainants brought suit seeking to enjoin a ratification vote on a merger between the ITU and the International Brotherhood of Teamsters that had been negotiated by the ITU President, who was holding office allegedly in violation of title IV of the LMRDA. Since the suit also sought remedies within the exclusive authority of the Secretary in a suit brought under title IV, the Secretary intervened and moved to dismiss certain portions of the complaint. The district court permitted the Secretary to intervene but granted a preliminary injunction precluding any action with respect to the merger until the election issues had been resolved. *Fry* v. *Bingel*, 116 LRRM 2165; 116 LRRM 2580 (N.D. Calif. 1984). The parties agreed to a rerun election under the supervision of the Secretary; Bingel lost the election.

In another important case decided this fiscal year, the District Court for the District of Columbia upheld the Secretary's prosecutorial discretion to determine which cases are appropriate for suit under title II of the LMRDA. *International Union, United Automobile, Aerospace, and Agricultural Implement Workers of America, UAW* v. *Donovan (Kawasaki)*, 577 F.Supp. 398 (D.D.C. 1983). In this case the union sought to compel the Secretary to enforce the employer and persuader reporting and disclosure provisions of the LMRDA against the employer, Kawasaki, and certain individuals that the employer had allegedly employed to engage in persuader activities. The union also argued that the Secretary had generally abrogated his enforcement responsibilities under title II of the Act. The court held that this enforcement authority is committed by law to agency discretion and not subject to judicial review. The court found that the Secretary had not abdicated responsibility for enforcing title II and, although it was not necessary to address the appropriateness of the Secretary's decision not to bring suit in the Kawasaki case, the court nevertheless found that the decision was "both rational and defensible." Although the union noticed its appeal, briefing has been held in abeyance pending action on the union's motion for reconsideration by the district court.

The division also successfully handled a case arising under the Vietnam Veterans' Readjustment Assistance Act decided by the Court of Appeals for the Third Circuit this year. In *Ryan* v. *City of Philadelphia*, 732 F.2d 147 (3rd Cir. 1984), the court of appeals summarily affirmed the district court's holding that a job offer that paid only 80 percent of the salary to which the veteran would have been entitled is not the "nearest approximation" of the job to which he would have been entitled but for his service-related disability. The court also affirmed the district court's award of back pay and interest to the veteran.

In other district court action, *Alaska Airlines* v. *Donovan*, 594 F. Supp. 92 (D.D.C. 1984), the division assisted the U.S. Attorney in the defense of the constitutionality of sec. 43 of the Airline Deregulation Act. Section 43 provides for the extension of certain rights and benefits to the employees of airlines, certified prior to the deregulation of the airline industry, to insure such employees against the loss of job security anticipated as a result of increased competition and to authorize the Secretary to promulgate regulations to interpret and implement these rights. On the eve of final issuance of the Secretary's regulations, implementing the first right of hire provided by sec. 43, the district court ruled that the entire section was unconstitutional because of an unseverable legislative veto provision similar to the one found unconstitutional in *INS* v.

Chadha, 462 U.S. 919 (1983). The Secretary's appeal, as well as those of several intervening unions, was pending in the Court of Appeals for the District of Columbia at the end of the fiscal year.

In several cases this year, the division defended actions taken by the Secretary pursuant to his responsiblities under the Redwood National Park Expansion Act. The Redwood Act contains a provision which requires the Secretary to adopt the interpretation most favorable to employees as a class in every case in which there is more than one "reasonable" interpretation. In two cases the Court of Appeals for the Ninth Circuit upheld the Secretary's definition of the term "layoff" as used in determining an employee's eligibility for benefits under the statute. In *Barnes* v. *Donovan*, 720 F.2d 1111 (9th Cir. 1983), the court held that off-season periods may not be counted towards the 20 weeks of layoff needed to establish eligibility for a severance payment under the Redwood Act, where the employees seeking this benefit were seasonal employees laid off prior to the conclusion of their usual work season. In *Kirby* v. *Donovan*, 727 F.2d 869 (9th Cir. 1984), the same court agreed with the Secretary that the Redwood Act was not intended to be an alternative form of disability compensation and that, therefore, an employee who is "off work solely because of disability is generally not entitled to" benefits under the Redwood Act. However, in *Kirby*, the court remanded the case for the Secretary's determination as to whether the employer involved had an established practice of temporarily assigning light duty to employees able to do it and whether that practice changed as a result of expansion of the Redwood National Park.

In *Barker* v. *Donovan*, 721 F.2d 271 (9th Cir. 1983), the court upheld the Secretary's determination that a nursery that produced and sold seedlings was not an "affected employer" within the meaning of the Redwood Act, because it was not engaged in "other wood processing operations" under sec. 201(6) and that it was neither a predecessor nor a successor to Simpson Timber Company, an employer that was, in fact, "affected" by the expansion of the Park. However, in two other cases, the division was unable to persuade the court that the employer involved was not "affected." Thus, the court held that the employees involved were eligible for benefits under the Act. In *Bennett* v. *Donovan*, 730 F.2d 559 (9th Cir. 1984), the court reached this conclusion by holding that a building supply company that in some instances trimmed precut boards to customers' specifications was engaged in wood processing operations. In *Tuey* v. *Donovan*, 726 F.2d 537 (9th Cir. 1984), the court held that employees of a division of a contract trucking firm that was neither in nor near the Park expansion area were, nevertheless, employees of an affected employer, because other divisions of the same company performed work directly related to the Park.

Two cases decided this year involved questions concerning the Secretary's authority to redetermine a claimant's eligibility for Redwood benefits. In *Hanley* v. *Donovan*, 734 F.2d 473 (9th Cir. 1984), the court held that where an error in computation, not the fault of the claimant, resulted in an overpayment, the Secretary was required to determine whether the overpayment should be waived, using principles similar to those set forth in the California Unemployment Insurance Code. In *Demarinis* v. *Donovan*, 729 F.2d 1266 (9th Cir. 1984), the court held that the Secretary was precluded by a State regulation that had been adopted in the Secretary's own Redwood Act regulations from redetermining a claimant's eligibility prospectively, i.e., more than 20 days after the initial determination that the claimant was eligible. The Secretary petitioned for rehearing *en banc* in this case.

Legislation and Legal Counsel

In fiscal year 1984, the Division of Legislation and Legal Counsel continued to work closely with other DOL officials in drafting proposed bills and related background materials, presenting the Department's views on pending legislation, and giving technical assistance to congressional committees. The division also performed a wide variety of "house counsel" functions, provided administrative legal services under the Freedom of Information and Privacy Acts, provided representation in connection with the Department's internal labor relations and personnel matters, assisted in the preparation of *Federal Register* documents, and furnished legal services to the Office of the Inspector General and the Bureau of Labor Statistics.

Early in fiscal 1984, the division continued its efforts on H.R. 3929, legislation to extend the Federal Supplemental Compensation Act of 1982 (FSC). The division was responsible for preparing correspondence stating the Administration's position on various provisions of the bill to House and Senate conferees. On October 21 the House and Senate agreed to the conference report, and, on October 24, the President signed the compromise legislation into law.

The Administration's "Youth Employment Opportunity Wage Act of 1984" was transmitted to Congress by the President on May 17. The bill was drafted by this division in cooperation with various departmental officials and would amend the Fair Labor Standards Act to permit employers to pay youths under 20 years of age, during the period from May 1 through September 30, a wage of not less than $2.50 per hour or 75 percent of the otherwise applicable minimum wage, whichever is less. The bill prohibits discharge, transfer, or demotion of any employee because of ineligibility for the youth wage and provides a penalty to enforce the provisions. The bill also provides that this program shall terminate on September 30, 1987. The Administration's bill was introduced as H.R. 5721 and S. 2687 in the House and Senate, respectively. Hearings were held by the Senate Committee on Labor and Human Resources at which Secretary Donovan testified.

The division continued to work on the development of legislation that would strengthen the provisions of the Employee Retirement Income Security Act (ERISA) and the Labor-Management Reporting and Disclosure Act (LMRDA) to disqualify individuals convicted of certain crimes from serving in specified positions relating to employee benefit plans and labor organizations. The legislation had passed the Senate on three separate occasions, but the provisions were again passed by the Senate as part of a criminal code package. In the closing days of the Congress, portions of that package, including the ERISA and LMRDA provisions, were included in legislation which was enacted by the Congress and signed by the President on October 12, 1984.

The division also continued to work on the Pension Equity Act, which was enacted by the Congress and signed by the President on August 23, 1984. This Act will enable women to more easily qualify for pensions themselves as well as share in those of their former or deceased spouses.

In fiscal 1984, the division worked on the preparation and review of numerous statements to be delivered by Department of Labor witnesses before congressional committees. Departmental officials testified on such important legislative matters as youth employment, employment of older Americans, trade adjustment assistance, veterans' employment and training, and unemployment compensation. Departmental officials also provided oversight testimony with respect to the administration of numerous DOL programs.

In addition, more than 200 reports to congressional committees and the Office of Management and Budget were prepared by this division on a broad spectrum of legislative proposals of interest to the Department.

The division also performed a wide variety of nonlegislative "house counsel" functions. These functions included the furnishing of advice with respect to the Ethics in Government Act as well as the other conflict-of-interest laws, orders, and regulations. The division consulted with numerous departmental agencies, officials, and employees on financial disclosure requirements, the avoidance of potential conflicts of interest, and permissible postemployment activities.

The division also provided legal advice on a wide variety of diverse matters including the Hatch Act, administrative law issues, Executive Order 12291 (Regulatory Reform), the Regulatory Flexibility Act, the Paperwork Reduction Act, and the Equal Access to Justice Act.

On September 18, 1984, the *Federal Register* published three subparts of the Department's proposed Debt Collection Act regulations drafted by this division in cooperation with various DOL officials. The three subparts are: Subpart A, disclosure of information to credit reporting agencies; Subpart B, administrative offset; and, Subpart C, assessment of interest, penalties, and administrative costs.

The division provided representation in the Department's internal labor relations, equal employment opportunity, and disciplinary cases. This representation involved both administrative cases and cases before the federal courts. In addition, advice and guidance were provided to all departmental agencies and, in particular, to the Office of the Assistant Secretary for Administration and Management on general personnel matters, as well as specific problem areas.

Of significance is the favorable resolution of a class action involving women employees in one region of the Employment Standards Administration who alleged that their grade levels were not comparable to male employees. In addition, there was significant litigation in both administrative and judicial forums concerning the obligation of the Department to provide for the rehabilitation of alcoholic employees under the Rehabilitation Act of 1973 (29 USC 791) and the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 USC § 4541, *et seq.*).

During fiscal 1984, the division performed a full range of legal services associated with the Freedom of Information Act (FOIA) and the Privacy Act. A total of 176 administrative appeals decisions were issued under the FOIA. In litigated cases under the FOIA and Privacy Act, the Department received favorable decisions in 13 of the 15 district court decisions rendered. One unfavorable ruling was appealed and reversed by the 11th Circuit in a significant decision, which expanded the application of an exemption under the FOIA to provide additional protection for informants on the ground that disclosure would constitute an unwarranted invasion of their personal privacy. The First Circuit also ruled for the Department by applying the privacy rationale to protect the identities of civil law enforcement investigators. The number of cases arising under the regulation governing the subpoena of DOL employees in cases in which the Department is not a party continued at the same rate as in previous years.

Finally, the division provides legal counsel to the Office of the Inspector General, representing agents who have been subpoenaed, serving as the Department's attorneys in civil fraud cases, rendering advice on legislative matters, and providing legal counsel on diverse matters such as procurement of computers, ethics, conflicts of interest, grantee audits, labor racketeering, and criminal procedure.

Mine Safety and Health

The division continued in fiscal 1984 to play an active role in the regulatory and enforcement program of the Mine Safety and Health Administration (MSHA), providing extensive legal advice and drafting assistance in the agency's review of existing standards and litigating a wide range of cases at the trial and appellate levels.

In the stand[illegible] review area, the division assisted MSHA in the developmen[illegible] preproposal draft standards for the use of explosives in und[illegible]ound coal mines, as well as companion draft specifications for the approval of explosives and sheathed explosive units, water stemming bags, electric detonators, and blasting units. The drafts were circulated for public comment in May 1984, and public conferences were held in June and July. Public conferences were also held early during the fiscal year on preproposal draft standards for roof, face, and rib support in underground coal mines, and a proposed rule was in the final stages of development at fiscal year's end.

The division also provided substantial assistance to MSHA in its review of standards applicable to metal and nonmetal mining and milling. As part of this review, the agency had published a proposed rule for fire prevention and control in October 1983 and held public hearings on the proposal in February 1984. A final rule was nearly completed by September 1984. In addition, proposed rules for ground control and use of equipment were published in March, and a preproposal draft of standards for the use of explosives in metal and nonmetal mines was circulated for public comment in August.

In other work related to MSHA's regulatory program, the division provided indepth legal review of more than 200 petitions for modification of safety standards filed by mine operators and rendered 175 formal legal opinions at the request of MSHA and members of the mining community.

During the fiscal year approximately 1,200 new cases were filed with the Federal Mine Safety and Health Review Commission, including 990 civil penalty cases filed by the Solicitor's Office on behalf of the Secretary under sec. 110 of the Mine Act. While a majority of these cases were handled by regional offices, the division continued to handle approximately 200 cases requiring close coordination with MSHA headquarters.

The division also handled all litigation before the Department's administrative law judges arising out of petitions for modification of MSHA standards. During the year, 15 new petition cases were referred to the division. The division also processed 27 actions for temporary reinstatement on behalf of miners who were discharged because of their exercise of statutory rights under the Mine Act.

Significant activities of the division's trial attorneys included filing and trying several discrimination actions on behalf of laid-off miners whose contractual rights of recall were denied them because they lacked MSHA-required training. One such case in which the division obtained a favorable decision was *Secretary on behalf of Thomas L. Williams* v. *Peabody Coal Co.*, 6 FMSHRC 1634 (July 11, 1984). That case was pending review before the Commission at the end of the year. Administrative contests of violations issued after the *Westmoreland* and *RFH* accidents were disposed of by settlement. Also, division staff assisted the Department of Justice in trial preparation of several major tort suits brought against the Government arising out of other major accidents. In addition, five companies and their agents were successfully indicted and prosecuted for willful violations of the Act during the fiscal year.

Collection matters continued to receive high priority. More than $650,000 in overdue civil penalties was collected during the fiscal year. Division attorneys directly assisted in collecting $390,000.

During the year, 150 Freedom of Information Act matters were handled by the division, many involving discovery-type requests for investigative records. Finally, the division provided assistance to MSHA in the investigation of several mine disasters, including the Greenwich Mine explosion which occurred in June in Pennsylvania.

The Commmission issued several significant decisions during the year. In two cases involving the noise control standards governing metal and nonmetal mines, *Secretary of Labor* v. *Callanan Industries, Inc.*, 5 FMSHRC 1900 (November 9, 1983), and *Todilto Exploration and Development Corp.*, 5 FMSHRC 1984 (November 9, 1983), the Commission agreed with the Secretary that a strict cost-benefit analysis is not required before enforcing the standards and that engineering or administrative controls must be used even if those controls will not, by themselves, cause the limit to be achieved. Furthermore, in a series of seven cases beginning with *Secretary of Labor* v. *Mathies Coal Co.*, 6 FMSHRC 1 (January 6, 1984), and *Secretary of Labor* v. *Consolidation Coal Co.*, 6 FMSHRC 34 (January 13, 1984), the Commission further defined and clarified the conditions under which a violation should be designated as "significant and substantial" under the Act. The Commission also issued a decision setting forth procedures for calculating the interest due on backpay awards to miners who are victims of discrimination under the Act. *Secretary of Labor on behalf of Bailey* v. *Arkansas-Carbona Co.*, 5 FMSHRC 2042 (December 12, 1983).

In three other cases the Commission (1) ruled that an MSHA special investigator need not obtain an administrative search warrant before investigating a complaint that an accident reporting violation has occurred, *Secretary of Labor* v. *Peabody Coal Co.*, 6 FMSHRC 183 (February 14, 1984); (2) explained the circumstances under which an operator's interference in allowing an MSHA inspector to visit an accident scene constitutes a violation, *U.S. Steel Corp.* v. *Secretary of Labor*, 6 FMSHRC 1423 (June 26, 1984); and (3) upheld MSHA's broad authority to require that all injuries occurring on a mine site be reported, *Secretary of Labor* v. *Freeman United Coal Mining Co.*, 6 FMSHRC 1577 (July 12, 1984). Finally, in *Secretary of Labor* v. *Kitt Energy Corp.*, 6 FMSHRC 1596 (July 18, 1984), the Commission ruled that the Act's "unwarrantable failure" sequence of withdrawal orders can be broken by any combination of parts of "regular" inspections or "spot" inspections during which the entire mine has been visited by MSHA inspectors. The union's appeal in that case was pending in the District of Columbia Circuit at the end of the fiscal year.

During the year the division prevailed in all of its appellate court litigation. In *Donovan* v. *Carolina Stalite Co.*, 734 F.2d 1547 (1984), the District of Columbia Circuit reversed the Commission's decision and held that the Secretary had properly exercised jurisdiction over a slate processing facility. Similarly, in *Donovan on behalf of Anderson* v. *Stafford Construction Co.*, 732 F.2d 954 (D.C. Cir. 1984), the court reversed the Commission's decision and held that a miner who may be called as a witness in a discrimination proceeding is protected from retaliation by the Mine Act's discrimination provisions even at the investigatory, prehearing stages of that proceeding. The Seventh Circuit issued a decision, agreeing with the Secretary and the Commission, that Commission administrative law judges, in assessing civil penalties, are not bound by the Secretary's civil penalty regulations. *Sellersburg Stone Co.* v. *FMSHRC*, 736 F.2d 1147 (1984). In *Florence Mining Co.* v. *FMSHRC*, 725 F.2d 667 (3rd Cir. 1983), the court of appeals concluded that rubber-tired haulage cars must be equipped with automatic coupling devices. In two different cases involving the question of whether miners' representatives are entitled to receive compensation while accompanying MSHA inspectors during "spot" inspections as well as during "regular" inspections, the courts agreed with a prior District of Columbia Circuit decision holding that the representatives are so entitled. *Consolidation Coal Co.* v. *FMSHRC*, 740 F.2d 271 (3rd Cir. 1984); *Monterey Coal Co.* v. *FMSHRC*, 743 F.2d 589 (7th Cir. 1984). Finally, in *Emery Mining Corp.* v. *Secretary of Labor*, 744 F.2d 1411 (10th Cir. 1984), the court ruled that miners must be provided annual refresher training at least once every 12 months and not merely once during each calendar year.

In addition, during the year a union and a citizens' group brought suit against the Secretary, alleging that he had improperly failed to respond to their rulemaking request and that he should be compelled to promulgate an emergency temporary standard governing the exposure of underground miners to radiation. *Oil, Chemical and Atomic Workers Union, et al.* v. *Zegeer, et al.*, Civ. No. 84–0760 (D.D.C. March 13, 1984). That case was pending in district court at the end of the year.

Occupational Safety and Health

The division assisted the Occupational Safety and Health Administration in an unusually large number of standards matters during the fiscal year. Health proposals were issued on employee exposure to ethylene dibromide (EDB) and asbestos. In another very significant action, a proposal to provide field sanitation facilities for agricultural workers was issued with assistance from this division. Extensive public hearings were held on all three of these proposals. In the safety area, major proposals on grain handling, oil and gas well drilling and servicing, safety testing or certification of workplace equipment, electrical safety for construction, and crane suspended work platforms were published in the *Federal Register*. Hearings were also conducted on each of these safety standards, as well as on proposals for underground construction (tunnels) and cotton dust which had been published last year.

A record number of ten rulemaking hearings were conducted this fiscal year. Rulemaking was completed and a final rule was adopted for hazard communication (labeling), one of the most far reaching OSHA standards ever promulgated. In addition, final standards were also published on ethylene oxide and single piece rim wheels. An emergency temporary standard on asbestos was also issued. Work actively continued on many other standards projects, including lead, benzene, formaldehyde, fall protection, scaffolds, ladders, and excavation and trenching among others.

During the fiscal year several significant decisions affecting OSHA were handed down by the courts in enforcement cases, including search-warrant cases and cases involving OSHA rules and standards. In the enforcement area there were two significant rulings. In *Kelly Springfield Tire Co.* v. *Donovan*, 729 F.2d 319 (5th Cir. 1984), the court held that a significant risk test is unnecessary where violations of the general duty clause are alleged. The decision was also important because the court held that the common knowledge of safety experts who are familiar with the circumstances of the industry was sufficient to establish the degree of knowledge to which employers are held, notwithstanding testimony that neither the employer nor the tire industry in general recognized the hazard at issue. In *Donovan* v. *Red Star Marine Services*, 739 F.2d 744 (2d Cir. 1984), the court held that isolated, incidental regulations do not constitute an exercise of authority by the Coast Guard sufficient, under sec. 4(b) (1) of the OSH Act, to oust OSHA from jurisdiction to regulate working conditions (here, noise hazards) of employees aboard uninspected vessels, thereby rejecting the Review Commission's holding that no distinction should be made between the Coast Guard's treatment of inspected and uninspected vessels.

In the warrant area, the Fifth Circuit Court of Appeals held, in *Donovan* v. *Service Foundry Co.*, 721 F.2d 492 (1983), that the statute authorizes the Secretary to issue regulations permitting his agents to attach environmental sampling devices to employees during the course of OSHA inspections.

In the regulatory area there were four significant cases. In *Asbestos Information Ass'n* v. *OSHA*, 727 F.2d 415 (5th Cir. 1984), the court held that the record, considered as a whole, did not substantially support OSHA's conclusion that an emergency temporary standard, lowering the existing permissible exposure level, was necessary to alleviate a grave risk of worker deaths during the 6-month term of the emergency temporary standard. In another case, *Louisiana Chemical Ass'n* v. *Bingham*, 731 F.2d 280 (5th Cir. 1984) (*per curiam*), the court upheld the Secretary's records-access rule, holding that: (1) OSHA possessed the requisite statutory authority to issue the rule, (2) sec. 8(g) (2) of the Act provides a broad enough grant of authority to permit employees or their designated representatives access to medical records, (3) privacy rights of employees were adequately protected by the rule, and (4) the rule did not violate either the Trade Secrets Act or the OSH Act in its authorization of trade-secret disclosures to employees and designated representatives.

The Ninth Circuit, in *ASARCO Inc.* v. *OSHA*, 746. F.2d 483 (1984), upheld the Secretary's standards regulating worker exposure to arsenic. The court held that: (1) the Secretary may assess the level of risk based on epidemiological evidence, expert opinion, and theoretical mathematical models; (2) the Secretary may use a no-threshold model and also may extrapolate evidence relating one chemical substance to a related chemical substance; and (3) the Secretary met his burden of establishing enonomic feasibility by providing a reasonable assessment of the likely costs and the likely effects of those costs on the industry as well as showing that the industry's long-term profitability is not threatened by the standard. The decision is especially important not only because it allows the Secretary to predict the level of risk to workers based on theoretical models, supported by expert opinion and epidemiological evidence, but also because the Secretary may rely on this decision as precedent enabling OSHA to predict the level of risk to workers in other rulemaking. In addition, this ruling represents the first attempt to apply the requirement of the Supreme Court that, before issuing a permanent standard, the Secretary must demonstrate a significant risk to workers. *Industrial Union Dept.* v. *American Petroleum Inst.* (the "Benzene" case), 448 U.S. 607, 642 (1980). Finally, in *United Automobile Workers* v. *Donovan*, 590 F.Supp. 747 (D.D.C. 1984) the district court declined to resolve the question of whether OSHA should have issued an emergency temporary standard in 1982 to lower exposure to formaldehyde in the workplace, finding that review of the prior decision, 2½ years later and on a stale record, would not serve the protective purpose of the Act. The court ordered the Secretary to reconsider whether an emergency temporary standard should be issued based upon current information.

The issuance of decisions by the Occupational Safety and Health Review Commission increased sharply in January after a third commissioner was confirmed, thereby filling a vacancy which had existed for 7 months. Major topics addressed included the Equal Access to Justice Act, OSHA's noise standard, scope of employee rights to participation in Commission proceedings, and the preemption of general standards by specific standards for steel erection.

Activity continued on the development and revision of a wide range of OSHA enforcement directives with particular emphasis on the development and application of guidelines for incorporating cost-effectiveness analysis into the enforcement of OSHA's noise standard. Significant legal issues also arose in connection with the recordkeeping guidelines developed by the Bureau of Labor Statistics (BLS) and OSHA, and a BLS/OSHA task force, with Solicitor's Office representation, met throughout the year.

Pursuant to sec. 405 of the Surface Transportation Assistance Act (49 U.S.C. 2305), a recently enacted statute which protects trucking industry employees from discrimination caused by the employees' protected activities, procedural rules have been drafted and submitted for agency approval. In addition, the decision-making mechanism at the preliminary order stage of enforcement was decentralized and delegated to the regional offices. Finally, several cases which have been through administrative hearings and Secretarial review have been appealed to the appropriate courts of appeals.

The Occupational Safety and Health Administration granted "final approval" under sec. 18(e) of the Act to three State plans (Alaska, Hawaii, and the Virgin Islands). The division assisted OSHA in preparing for and conducting public hearings, as well as in drafting the complex *Federal Register* notices granting final approval. Another major undertaking in which substantial progress was made is the revision of State staffing benchmarks in accordance with the U.S. district court order pursuant to the court of appeals decision in *AFL-CIO* v. *Marshall*, 570 F.2d 1030 (D.C.Cir. 1978). Division staff participated in the work of a Federal/State task force whose mission was to develop a formula for benchmarks revision; the division also rendered legal counsel and drafting assistance to OSHA in preparing *Federal Register* notices requesting public comment on proposed revisions to the benchmarks for the twelve State plans presently considering such revisions.

Plan Benefits Security

During the fiscal year, the division continued to litigate numerous important cases addressing critical issues of fiduciary responsibility under the Employee Retirement Income Security Act of 1974 (ERISA) as well as cases involving large actual or potential losses to employee benefit plans.

In *Donovan* v. *Cunningham*, 716 F.2d 1455 (5th Cir. 1983), *cert. denied*, 104 S. Ct. 3533 (1984), the court found that trustees of an employee stock ownership plan violated ERISA's prudence rule in causing the plan to purchase sponsor securities without adequately investigating the appropriateness of the price. Specifically, although the court held that the trustees could rely on the expertise of appraisers of closely held securities in establishing a price, they had to perform their own review of the appraisal to ensure that the facts on which it was based had not significantly changed. The failure of the trustees in this case to do so violated ERISA. The court also held that settlement of a similar case brought by participants did not cause the Secretary's case to become moot, because the Secretary could properly seek other relief—in this case disgorgement of profits—not sought by the participants.

The Seventh Circuit, in *Leigh* v. *Engle*, 727 F.2d 113 (1984), in a very important decision, examined the ERISA issues raised by the use of plan assets to assist a plan sponsor in a corporate takeover campaign. In reversing a district court decision, the court adopted an approach similar to that suggested by the Secretary in an *amicus curiae* brief filed at the court's request. The court held

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that plan trustees committed violations of the exclusive benefit and prudence rules as well as the prohibition against self-dealing by using plan assets without making an independent investigation of the merits of the investment or obtaining the advice of a distinterested expert. The court also suggested that in the area of corporate takeovers, where plan trustees are subject to an inherent conflict of interest, the best course was for the trustees to delegate responsibility for handling the assets affected to an independent investment manager. In addition, the court held that disgorgement of profits was available as a remedy for fiduciary breach even in cases in which a plan suffered no losses and that a person whose fiduciary role was limited to appointment and removal of trustees could be liable for breaches of those trustees, if there was a failure to monitor their performance.

Katsaros v. *Cody*, (*Cody I*) 744 F.2d (2d Cir.) *cert. denied*, 105 S.Ct.565 (1984), involved a suit by participants and the Secretary against trustees of a Teamsters pension fund who caused the fund to make a $2 million loan to a bank without adequate investigation. The loan subsequently went into default when the bank was closed by Federal banking authorities. In affirming the district court's judgment that the trustees had breached their fiduciary duties, the court held that the trustees, who were ill-equipped to evaluate the soundness of the investment, should have sought outside expert assistance. In addition, the court faulted them for relying exclusively on the borrower's representations and for reaching their decision to make the investment without adequate inquiry. The court of appeals also held that there was no right to a jury trial in ERISA actions and that the district court properly appointed an investment manager to serve for a 15-month term.

Donovan v. *Carlough*, 576 F.Supp. 245 (D.D.C. 1983) (appeal pending), involved a Sheet Metal Workers' welfare plan designed to minimize the adverse economic consequences of employment fluctuations. The plan rules provided for forfeiture of benefits by employees no longer working under a collective bargaining agreement. The trustees invoked this provision to deny benefits to employees who had voted that in the next contract this particular benefit should not be included but were still working under a contract which included the benefit. The Secretary brought suit alleging that this action violated the trustee's fiduciary duties under ERISA in that it was contrary to the plain meaning of plan rule and was, therefore, arbitrary and capricious. The district court agreed with the Secretary and ordered extensive monetary relief.

In *Donovan* v. *Tricario*, Nos. 5 Empl. Ben. Cas. 1733 (S.D. Fla. April 17, 1984), the Secretary brought suit against trustees of Laborers Union welfare plans who had caused those plans to fund a death benefit by purchasing individual whole life insurance policies. The court found that the trustees violated their duty of prudence under ERISA by funding the benefits in this manner without investigating the availability of well-known and less costly alternatives. In reaching this result, the court held that the advice of an expert is only one factor to be considered in making an investment decision. The court also concluded that the suit was not barred by the three-year statute of limitations based on knowledge obtained from a report filed with the Secretary, because no report filed contained sufficient information to give the Secretary actual knowledge of a violation. In its judgment, the court ordered certain defendants to restore to the plan $200,000 received as kickbacks in connection with the whole life investment, ordered one trustee to restore $57,412 to the plan, and issued wide-ranging permanent injunctive relief against the defendants.

Several cases were settled by consent order or settlement agreement resulting in large recoveries to various plans. Approximately $500,000 was restored by the Cooper Tire & Rubber Co. to its retirement plan after an independent appraiser, pursuant to a settlement agreement, concluded that Cooper Tire, in purchasing property and buildings from the plan, had paid a price significantly below fair market value. In *Donovan* v. *Giardiello*, No. 80-2794-CIV-JLK (S.D. Fla. May 30, 1984), trustees of Laborers Union welfare funds restored $300,000 lost as a result of their decision to fund death benefits with individual whole life insurance. In *Donovan* v. *Ashplant*, No. 83-CIV-1455 WK (S.D.N.Y. July 30, 1984), some of the defendants agreed to restore $425,000 lost by a profit-sharing plan when the plan sponsor, in whose securities the plan was heavily invested, went bankrupt.

During the past year several significant cases were filed. In *Donovan* v. *Sciarra*, No. 84-1866 (D.N.J. May 7, 1984), the Department is seeking to prevent a welfare plan from reimbursing legal expenses of $70,000 incurred by a former trustee during a successful defense against criminal charges that he defrauded the plan. In *Donovan* v. *Cody*, No. 83-2770 (E.D.N.Y. June 1, 1983), the Department is seeking restitution of a kickback received by one trustee in connection with a purchase of property by a Teamster pension plan as well as salary payments by the plan to a trustee who was already receiving a full-time union salary and to business agents for work not performed. The Department is also seeking recovery of excessive payments made to a legal services provider and to have nonfiduciaries barred as service providers or fiduciaries for a period of years. *Donovan* v. *Sansone*, No. 83-1838-C(2) (E.D. Mo. Aug. 1, 1983), involves payment by welfare plans of excessive administrative fees to a realty company owned by the sponsoring union and to other service providers. *Donovan* v. *King*, No. C-1-84-0202 (S.D. Ohio Feb. 3, 1984) and *Donovan* v.

Glover, No. 84–0376 (D.D.C. Feb. 3, 1984), involve speculative, high-risk investments made by three employee benefit plans in certain companies in reliance upon the advice of a defendant who had a financial interest in the companies.

The division was also involved in a number of departmental regulatory and legislative initiatives. During 1984, the division worked closely with the Office of Pension and Welfare Benefit Programs and other offices in the Department to provide technical advice in the course of congressional consideration of the Retirement Equity Act which was passed in August. This legislation amends ERISA (and the related provisions of the Internal Revenue Code) in several respects in order to help women earn pensions and to assure that they will share in pensions earned by their spouses.

On April 4 the Department announced a Joint Policy Position with the Internal Revenue Service and the Pension Benefit Guaranty Corporation with regard to terminations of defined benefit pension plans and reversions of surplus plan assets to employers. The number of terminations effecting reversions of plan assets had increased during the year, giving rise to concern about the ramifications of such terminations for the national private pension system. The division was instrumental in the analysis of the legal issues raised under ERISA when plan terminations result in such reversions and it also played a central role in the development of the Department's response to these issues, culminating in the Joint Policy Position announced in departmental testimony before the Subcommittee on Labor of the Senate Committee on Labor and Human Resources. The division also acted in an advisory capacity with regard to the promulgation of ERISA Release 84–1, assuring that plan participants receive adequate disclosure with regard to the possibility of the termination of their plan.

The division has also played a major role in developing several class exemptions which improve investment opportunities for plans and remove ERISA impediments to investment decisions. On March 13 the Department published a final class exemption from certain restrictions of ERISA for transactions entered into on behalf of an employee benefit plan by a qualified professional asset manager (QPAM). The QPAM must meet specified financial standards as well as be independent of the plan and the person with whom it is dealing. This exemption, which is a major deregulatory project, is designed to provide broad exemptive relief for financial institutions in their management of plan assets. The Department also published on May 25 a final class exemption which permits an insurance company to utilize its affiliates to affect or execute securities transactions in order to recapture brokerage commissions for the benefit of employee benefit plans whose assets are held in pooled separate accounts managed by the insurance company. In 1979 the Department granted Prohibited Transaction Exemption (PTE) 79-1, which allows persons who serve as fiduciaries of employee benefit plans to affect securities transactions for those plans under certain circumstances. This exemption is designed to continue the protection of plan participants while alleviating difficulties which have been encountered by insurance companies in complying with PTE 79-1.

On April 3 the Department also published amendments to PTE 77-9, a class exemption that removes impediments in certain circumstances to plans' investing in mutual funds and contracts of insurance. The amendments were adopted to accommodate the increasingly common situation of mutual fund complexes providing their own "in-house" nondiscretionary bank trust and custodial services.

In addition to these three exemptions, the Department published a proposed amendment to a current class exemption dealing with plan investments in short-term securities and a proposed exemption which will enable a plan to invest in customer notes originated by the employer maintaining the plan.

Finally, the division has been involved in a number of regulatory projects which will provide certainty regarding the scope of some provisions in ERISA and will further facilitate investment decisions by financial institutions on behalf of employee benefit plans.

There also was significant litigation activity in three regional offices. San Francisco, Atlanta, and Boston staff participated in the decentralized ERISA litigation pilot program. On August 31, 1984, in *Donovan* v. *Boresek*, No. 84-282 (W.D. Wash.), a consent order was signed requiring the repayment to the Franko Oil Company Merged Profit Sharing Plan and Retirement Plan of $1 million in loans improperly made to one of the trustees of the plan and the appointment of an institutional trustee for the plan. *Donovan* v. *Hoffman*, C-83-4380 SW (N.D. Calif.), was an action against trustees of the Any Mountain Trust Plan alleging violations of ERISA's prudence and prohibited transactions provision as a result of the trustees' failure to record, on behalf of the plan, the security for large loan transactions and their making of large unsecured loans to high-level employees and to the plan sponsor. As well as enjoining future violations of the Act, a consent decree has been obtained providing for the repayment of $300,000 to the plan and enjoining Hoffman and others from serving in a similar capacity for 10 years. On December 1, 1983, a complaint was filed in *Donovan* v. *Brodell*, No. 83-419B (D. Maine), against the former plan administrator and former trustees of the Viner Bros., Inc. Employee Stock Ownership Plan for engaging in improper stock transactions which resulted in substantial losses to the plan. The defendants were charged with imprudently causing the plan to purchase shares of Viner stock from the parent corporation (LTM Inc.) and for imprudently exercising rights to convert LTM preferred stock into Viner common stock without properly valuing the Viner shares. At the time of these transactions, Viner Bros., Inc., a shoe manufacturer in Bangor, Maine, was in serious financial difficulty, and its stock was practically worthless. These stock transactions were also alleged to violate ERISA's prohibited transaction provisions. As of September 30, 1984, the Department had pending a motion for entry of a default judgment against one defendant and had reached oral agreement with the other defendants to settle the case.

Donovan v. *Small*, No. 84-920 (N.D. N.Y.), involved prohibited low interest rate loans made by the Smith and Caffrey Steel Corp. Employee Profit Sharing Plan to parties in interest with respect to the plan. On July 14, 1984, a consent decree was entered recovering approximately $880,000 on behalf of plan participants. *Donovan* v. *Uzzolino*, No. 84-3828 (D. N.J.), a case involving the payment by the Local 478 Trucking and Allied Industries Pension Fund of attorneys' fees incurred by two of its trustees in defending themselves against criminal conspiracy charges, was resolved by the entry of a consent order on September 21, 1984, and the recovery by the plan of $84,000.

The Department continued litigation efforts in *Donovan* v. *Hunt*, No. 83-583-CIV-T-15 (M.D. Fla.), against common trustees of the George Hunt, Inc. Employees' Pension Trust and the George Hunt, Inc. Employee Stock Ownership Plan and Trust. The suit alleged that the defendants made a series of prohibited loans to the plans' sponsor, a wholly owned subsidiary and a related company, and to two plan participants and that they had caused a transfer of property to be made from the ESOP to a party in interest without receipt of adequate consideration. With losses exceeding $700,000, the suit sought the removal of the plans' trustees, reimbursement by the trustees for all losses to the plans, and rescission of all prohibited transactions. Discovery was completed and negotiations were pending at the end of the fiscal year.

In *Donovan* v. *Jones*, No. H-83-4566 (S.D. Tex.), the Department alleged that the trustee of the Stacey Electrical Construction Inc. Profit Sharing Plan made several prohibited loans to himself and entities related to him. An order has been issued preliminarily enjoining the principal defendant from serving as a fiduciary to the plan and appointing a receiver. The suit asked for a permanent injunction against the principal defendant and restoration of in excess of $280,000 to the plan. Discovery has been completed, and settlement negotiations were still in progress at the end of the year. On August 20, 1984, a complaint was filed in the U.S. District Court for the Western District of Kentucky in *Donovan* v. *Snider* against trustees of the Snider Bolt and Screw Profit Sharing Plan. The complaint alleged that the trustees caused the plan to make a prohibited $75,000 loan to the principal owner of the plan sponsor at an interest rate below the fair market rate and requested restitution of lost interest to the plan and rescission of the loan.

Special Appellate and Supreme Court Litigation

During the past year, two significant cases handled by the division were decided by the Supreme Court. In *Local No. 82, Furniture & Piano Moving, Furniture Store Drivers* v. *Crowley*, 104 S.Ct. 2557 (1984), the Court ruled, as the Government had argued, that, during the course of a union election, union members may not seek invalidation of the election and court supervision of a new election under title I ("Bill of Rights") of the Labor-Management Reporting and Disclosure Act (LMRDA). Instead, they must use the remedies provided by title IV that give the Secretary the authority to investigate complaints of violations, to bring a suit to set aside the election, and to supervise a new election. In the other case, *Donovan* v. *Lone Steer, Inc.*, 104 S.Ct. 769 (1984), the Court also agreed with the Government that, under the Fair Labor Standards Act (FLSA), the Secretary may issue, without a warrant, an administrative subpoena requiring production of an employer's business records off the office premises.

The division has three cases pending before the Supreme Court to be argued during the October 1984 term. In *Donovan* v. *San Antonio Metropolitan Transit Authority*, Nos. 82-1913, 82-1951, *prob. juris, noted*, 52 U.S.L.W. 3228 (Oct. 4, 1983), the Government will be defending the constitutionality under the Tenth Amendment of the FLSA's minimum wage and overtime provisions as applied to public mass transit employees. The Court restored the case (argued during the 1983 term) to the calendar for reargument and decision and directed the parties to address whether the principles of the Tenth Amendment as set forth in *National League of Cities* v. *Usery*, 426 U.S. 833 (1976), should be reconsidered. In that case, the same provisions were held unconstitutional as applied to State and local government employees who perform "traditional government functions."

The important question before the Court in *Central States, Southeast and Southwest Areas Pension Fund* v. *Central Transport, Inc.*, No. 82-2157, *cert. granted*, 52 U.S.L.W. 3902 (June 18, 1984), is whether the Employee Retirement Income Security Act permits the trustees of a multiemployer employee benefit plan to audit a participating employer's records to verify that the employer is making contributions for all covered employees.

Herb's Welding, Inc. v. *Gray*, No. 83-728, *cert. granted*, 52 U.S.L.W. 3678 (March 19, 1984), raises a coverage question under the Longshoremen's and Harbor Workers' Compensation Act: whether an offshore worker, injured on a fixed drilling platform in State territorial waters, while providing maintenance services for platforms located in territorial waters and on the outer continental shelf, is covered.

The division also received several important decisions in cases litigated in the courts of appeals. The Eighth Circuit, in *In re Inspection of . . . Carondolet Coke Corp.*, 741 F.2d 172 (1984), approved a full-scope safety inspection under the Occupational Safety and Health Act (OSHA) where the inspection was initially triggered by an employee complaint, but the scope of the inspection was determined by using neutral statistical data in the agency's programmed inspection plan. In another OSHA case, *Donovan* v. *Intern. U., Allied Indus. Workers of America*, 722 F.2d 1415 (1983), the Eighth Circuit agreed with the Secretary that the Act precludes employees from challenging and the Occupational Safety and Health Review Commission from reviewing the Secretary's settlements of citations with employers, except as to the period allowed for abatement. The District of Columbia Circuit favorably decided a similar issue under the Federal Mine Safety and Health Act in *United Mine Workers of America* v. *Donovan*, 725 F.2d 126 (1983), holding that a miner's representative may not contest, by filing a notice of contest, aspects of a citation other than the reasonableness of the abatement period.

The division also obtained favorable rulings in a FLSA case, *Donovan* v. *Tony & Susan Alamo Foundation*, 722 F.2d 397 (8th Cir. 1983). There, the Eighth Circuit held that individuals working in commercial businesses of a religious organization who expect to be supported by that organization are its "employees" and thus entitled to the FLSA's wage and hour protections and that subjecting the religious organization to the FLSA does not violate the First Amendment. On the other hand, the same court ruled in *Donovan* v. *Trans World Airlines, Inc.*, 726 F.2d 415 (1984), that individuals selected by the airline to be trained as flight attendants are not "employees" within the meaning of the FLSA during the training period.

In several cases, the division successfully defended the Department's authority to recover misspent grant funds disbursed under the Comprehensive Employment and Training Act of 1973 (CETA). The Eighth Circuit ruled in *Texarkana Metropolitan Area Manpower Consortium* v. *Donovan*, 721 F.2d 1162 (1983), that the 1973 CETA gives the Department the authority to recover misspent funds by repayment; and, in *Alameda County Training & Employment Board* v. *United States Department of Labor*, No. 83-7253 (July 19, 1984), the Ninth Circuit ruled that the Department is not barred from exercising this authority with respect to misspent funds from grants terminated more than 2 years before the Department's completion of the audit. In *Alameda County* as well as in *Quechan Indian Tribe* v. *United States Department of Labor*, 723 F.2d 733 (9th Cir. 1984), the court reaffirmed that the grantee bears the burden of establishing that the expenditures of its CETA funds were allowable. Although the court upheld in every respect the propriety of the Department's repayment order in *Quechan*, it remanded the case to the Secretary for consideration of whether the equities merit a waiver of the Secretary's right to recover the funds misspent by the tribe.

The first cases concerning the recently enacted Job Training Partnership Act (the successor legislation to CETA) were decided this year. The First Circuit clarified in *Romero-Barcelo* v. *Donovan*, 722 F.2d 882 (1983), that a consortium of units of general local government that serves a substantial part of one labor market is eligible for compulsory designation as a service delivery area but that a consortium serving substantial parts of more than one labor market is not eligible for such a designation. In *Consortium of Rockingham & Strafford Counties, New Hampshire* v. *United States Department of Labor*, 722 F.2d 888 (1983), the same court also clarified what entities qualify as "units of general local government" under the Act.

The division successfully defended against a challenge to the Department's enforcement of Executive Order 11246 in *Taylor* v. *United States Department of Labor*, 725 F.2d 670 (3rd Cir. 1983). In the face of allegations of inadequate enforcement, the court of appeals upheld the district court's refusal to grant mandamus relief, which would have directed the Department to utilize particular enforcement strategies in enforcing the Executive order with respect to construction contractors in the Philadelphia area, on the ground that the Department's actions were reasonable and consistent with applicable regulations.

In two cases presenting issues under the Black Lung Benefits Act, *Alabama By-Products Corp.* v. *Killingsworth*, 733 F.2d 1511 (11th Cir. 1984), and *Taft* v. *Alabama By-Products Corp.*, 733 F.2d 1518 (11th Cir. 1984), the division obtained a favorable result. The court affirmed the constitutionality of the interim regulatory presumption of disability due to pneumoconiosis at 20 C.F.R. 727.203(a) (1) and ruled that invocation of that presumption shifts the burden of persuasion to the rebutting party. With respect to the prerequisites for rebutting the presumption of total disability, the court ruled that the requirement of proof that the disability did not arise "in whole or in part" from coal mine employment is valid and that the presumption can be rebutted by proof the miner is physically able to perform his usual coal mine job.

In a LMRDA case, *Donovan* v. *National Transient Division, International Brotherhood of Boilermakers*, 736 F.2d 618 (1984), the Tenth Circuit agreed with the Secretary that the National Transient Division is a "labor organization" within the meaning of the Act's election provisions and, despite its geographic breadth, is a "local" rather than "national" union because of the type of services it renders its members.

Finally, in *Mackowiak* v. *University Nuclear Systems, Inc.*, 735 F.2d 1159 (9th Cir. 1984), a case arising under the "whistle blower" protection provision of the Energy Reorganization Act, the court ruled that protected activity under the Act encompasses internal safety complaints by quality control.

Special Litigation

During the fiscal year, the division continued its active litigation of a number of cases involving the Teamsters' Central States, Southeast and Southwest Areas Health and Welfare and Pension Funds, as well as the Southern Nevada Culinary and Bartenders Pension Trust. All of these cases are related to the enforcement of the Employee Retirement Income Security Act of 1974 (ERISA).

On December 3, 1982, the United States District Court for the Northern District of Illinois appointed former Attorney General Willliam B. Saxbe as Independent Special Counsel of the Teamsters' Pension Fund pursuant to the consent decree entered earlier in September in *Donovan* v. *Fitzsimmons*, No. 78 C 342 (N.D. Ill.). In this capacity, he has monitored the fund's compliance with its obligation to operate in conformity with the requirements of ERISA. In January 1984 the court approved the appointment of Morgan Stanley, Inc. to succeed the Equitable Life Assurance Society of the United States as the named fiduciary of the fund pursuant to the *Fitzsimmons* consent decree. However, in March 1984, the court further delayed the trial of the Secretary's claims against the fund's former trustees by a ruling that the court's approval of a settlement of private class actions consolidated with *Fitzsimmons* would require the dismissal of the Secretary's claims against the former trustee defendants. On August 27, 1984, the court approved the settlement of the private class actions over the Secretary's objections and dismissed the *Fitzsimmons* case.

In *McDougall* v. *Donovan*, No. 81 C 5891 (N.D. Ill.), the Central Conference of Teamsters (CCT) agreed in December 1983 to a settlement of the Secretary's claim that the sale of a jet aircraft from the CCT to the Teamsters' Pension Fund was a prohibited transaction within the meaning of Section 406 of ERISA. Under the terms of the settlement, which the district court approved by entering a consent decree on May 22, 1984, the transaction was rescinded. As a result, the CCT returned to the fund $4,331,736, which at the time was the largest recovery secured by the Department under ERISA. This settlement also was unusual, because it resulted in recovery from a third-party whereas most recoveries under ERISA have been from trustees or other fiduciaries of pension funds.

On June 14, 1984, in *Central States Pension Fund* v. *Baron*, No. 78 C 3702 (N.D. Ill.), the district court, on reconsideration of an earlier ruling, rejected the Secretary's intervention to contest a settlement for $67,000 of a $303,427.41 judgment against the defendant related to his receipt of a kickback from a borrower from the Teamsters' Pension Fund. Refusing to reach the issue of the reasonableness of this kind of settlement under the fiduciary standards of ERISA, the court held that the parties were entitled to the benefit of their settlement bargain in the absence of proof by the Secretary that the settlement had not been negotiated in good faith. In August 1984 the Secretary filed both a motion to reopen the case based on newly discovered evidence and an appeal of the *Baron* ruling. Both matters remained undecided at the end of the fiscal year.

From February 6, 1984, through March 6, 1984, the trial proceeded of Count VII of *Donovan* v. *Dorfman*, No. 82 C 7951 (N.D. Ill.), in which the Secretary contested as excessive under ERISA the $10.75 million sale price the Teamsters' Health and Welfare Fund agreed to pay to acquire claims processing assets from companies previously controlled by the late Allen M. Dorfman. On July 23, 1984, the district court entered an order rejecting the Secretary's claims; however, the court's order was not yet final for purpose of appeal.

The trial of *Donovan* v. *Robbins*, No. 78 C 4075 (N.D. Ill.), began on September 24, 1984. In this case the Secretary has alleged that certain transactions between fiduciaries of the Teamsters' Health and Welfare Fund and the late Allen M. Dorfman and the entities he controlled violated the fiduciary responsibility provisions of ERISA. Pursuant to the terms of a February 1, 1983 order entered in the *Robbins* and *Dorfman* cases, the $10.75 million to pay for the Dorfman companies' claims processing assets was deposited with the registry of the court to satisfy any judgments in these actions entered against the Dorfman defendants. As of September 1984, this fund totaled approximately $12.3 million dollars. The remainder of the *Dorfman* case will go to trial in January 1985.

On June 14, 1984, the Secretary announced the largest settlement in the history of ERISA. As a result of the settlement, the fiduciary liability insurers of seven of the current trustees of the Teamsters' Health and Welfare and Pension Funds restored $6.75 million to the funds to settle the Secretary's monetary claims against the current trustees. This payment brought the total recovery in the Teamsters' Central States cases to $11.1 million.

The $6.75 million paid to settle the Secretary's monetary claims against the seven current trustees partially implements what was originally a proposed $6.5 million settlement with the current trustees first announced by the Secretary in May 1983. The Secretary insisted on a supplementary $250,000 payment to compensate the funds for the delay in implementing the May 1983 agreement. As a further result of the settlement announced in June 1984, the Secretary and the Teamsters' Health and Welfare Fund are also pursuing pending appeals in the United States Court of Appeals for the Seventh Circuit, which they filed in February 1984, from the district court's refusal in December 1983 to enter a consent decree in the *Robbins* and *Dorfman* cases that would have implemented for the Teamsters' Health and Welfare Fund the same institutional reforms, including an independent special counsel and a named fiduciary, that the Secretary had secured for the Teamsters' Pension Fund in September 1982 in the *Fitzsimmons* case.

In *Donovan* v. *Schmoutey*, No. CV-LV-77-47-RDF (D. Nev), the trial of the Secretary's claims against Morris A. Shenker and the companies he owned and controlled, which began on June 2, 1983, continued through the end of the first week in December 1983. This trial, which involved loans and other extensions of credit to Shenker's companies from the Southern Nevada Culinary and Bartenders Pension Trust, is the longest, lasting some six months, in any ERISA enforcement litigation brought by the Secretary. Following submission of proposed findings of facts and conclusions of law and other post-trial pleadings, on May 15, 1984, the court awarded a judgment in the approximate amount of $36.5 million in favor of the Secretary and against Shenker and his companies. This was the largest judgment ever obtained in any ERISA case prosecuted by the Secretary. The court also awarded the Secretary litigation costs and attorneys' fees.

On August 6, 1984, the court amended its May 15, 1984 order to enter favorable and precedent setting conclusions of law. The court held that persons dealing with ERISA plans can be held jointly and severally liable with plan fiduciaries for plan losses when these persons knowingly participate in fiduciary breaches. The court also granted the Secretary's request that Shenker and his companies be permanently enjoined from borrowing and otherwise benefiting from the assets of ERISA plans.

On January 3, 1984, Shenker filed a Chapter 11 bankruptcy petition in the United States Bankruptcy Court in St. Louis, Missouri, *In re Shenker*, No. 84–0001(3) (Bankr. E.D. Mo.). In March 1984, he attempted to persuade the court to enjoin the Secretary from his pursuit of a judgment against Shenker in the *Schmoutey* case. Nevertheless, the court concluded that earlier analogous decisions it had made were not applicable. This finding was the first judicial precedent under the Bankruptcy Code that an ERISA suit brought by the Secretary is a law enforcement action that may not be stayed from prosecution to judgment. On May 24, I.J.K. Nevada, Inc., one of the Shenker companies against which the Secretary obtained his judgment in *Schmoutey*, also filed a Chapter 11 bankruptcy petition in St. Louis, *In re I.J.K. Nevada, Inc.*, No. 84–00915(3) (Bankr. E.D. Mo.).

The Secretary's claims in *Schmoutey* for injunctive relief against a former pension trust trustee, Ben Schmoutey, who approved the loans to Shenker's companies, were decided on April 2, 1984, when the district court granted the Secretary's motion for summary judgment against Schmoutey. In connection with this decision, the court granted the Secretary's request that Schmoutey be enjoined, for a period of five years, from any type of fiduciary activity involving ERISA plans. On April 30, 1984, Schmoutey appealed the April 2, 1984 judgment against him to the United States Court of Appeals for the Ninth Circuit. Thus far the appeal has been briefed but not yet argued or decided.

Office of Policy

During fiscal year 1984, the Office of Policy provided staff support for the Secretary's participation in a number of Cabinet Councils, primarily those on Economic Policy, Human Resources, and Commerce and Trade. The Office participated in various working groups dealing with interagency issues that affect the Department, and briefed the Secretary in preparation for Cabinet Council meetings. The Cabinet Councils discussed a diversity of topics, including immigation, legislation, pension policy, tax legislation, the problem of youth unemployment, employment and job training policy, legal equity for women, international trade policy, the impact of demographic shifts, steel industry merger and acquisition guidelines, revisions in trade, recommendations of the Presidential Commission on Industrial Competitiveness, and the commercial use of space.

Program Analysis

The Office of Policy played an important role in the development and presentation to the Congress of the Administration's Youth Employment Opportunity Wage (YEOW) Act of 1984. YEOW would establish incentives for the private sector to create jobs and training positions for teens under 19 years of age. Though this legislation was not enacted, considerable broad-based support was achieved, setting the stage for the next session of Congress. The Office of Policy analyzed the employment impacts of YEOW, participated in developing legislative language and strategies, and prepared congressional testimony in support of YEOW.

The Office of Policy participated in the development of a quality control program for the Federal-State Unemployment Insurance system in fiscal 1984. This program is designed to protect the integrity of benefit payments and revenue collections by measuring error rates, identifying sources of error and instituting corrective action. The Office of Policy provided continuing staff support on this project, particularly regarding statistical issues such as sample size requirements and the analysis of error prone cases.

The Office also assisted in the development and passage of the Administration's bill to improve women's equity in pensions—the Retirement Equity Act of 1984. The bill makes several changes which will improve women's chances to be vested in private pension plans and to ensure participation in benefits received by a spouse. The Office of Policy also supported the Secretary in his role as Chairman of the Board of Directors of the Pension

Benefit Guarantee Corporation and as a Trustee of the Social Security Trust Fund.

Regulatory Analysis

The Office of Policy provides the support staff for the Secretary's Policy Review Coordinating Committee (PRCC). This committee provides the Secretary and other senior staff with means for reviewing every regulatory action proposed by any part of the Department. The Office of Policy coordinates the PRCC agenda and makes independent analyses of proposed actions focusing on the broad policy implications of proposed actions and their potential economic impact.

During the year, the PRCC addressed numerous issues, including the following:

1. Employment Standards Administration's (ESA) proposals regarding changes in homeworker regulations under the Fair Labor Standards Act (FLSA);
2. Occupational Safety and Health Administration's (OSHA) proposals for changes in construction standards on ladders, cranes, and scaffolding;
3. Employment and Training Administration's (ETA) proposals dealing with agricultural adverse effect wage rates and piece rates;
4. Mine Safety and Health Administration's (MSHA) regulations dealing with fire prevention and the handling of explosives;
5. ESA's regulations dealing with medical fee schedules and regulations of providers under the Federal Employees' Compensation Act (FECA);
6. Pension and Welfare Benefits Programs (PWBP) proposed definitions of plan assets under the Employee Retirement Income Security Act (ERISA);
7. OSHA's health standards proposals such as those dealing with ethylene oxide and toxic exposures in laboratories; and,
8. ETA's proposals for evaluating performance under the Job Training Partnership Act (JTPA).

The Office worked closely with the various agencies of the Department, especially MSHA, OSHA, and ESA, to ensure that economic and other analyses met the requirements of the Regulatory Flexibility Act, E.O. 12291, etc. The Office also worked closely with the Solicitor of Labor in defending the regulatory actions proposed.

Other actions in which the office was deeply involved were these:

1. Development of detailed analyses of the experience of the Black Lung program and the potential impact of proposed occupational disease compensation legislation in support of the Inter-Departmental Task Force on Toxic Torts. Staff also supported efforts by the Environmental Protection Agency, the Veterans Administration, Justice, and other agencies in the work those agencies were doing for the Task Force. Related analyses helped shape the Administration's position on product liability proposals.
2. Working closely with PWBP, Treasury, and other agencies in developing materials to support the Administration's efforts to ensure enactment of the Retirement Equity Act of 1984 to help women workers. As part of this, improvements were made in the models of private pension plans.
3. Providing the estimates needed to support the Administration's proposed Youth Employment Opportunity Wage program for young workers. In a related area, work continued with the Treasury Department on a detailed analysis of the Targeted Jobs Tax Credit provisions which expire in 1986.

Economic Analysis

The Office of Policy provided analytical interpretation and projections of key economic data to senior Department and Government officials. Analysis of labor force, compensation, and price data originating in the Bureau of Labor Statistics was emphasized; however, the full range of real and financial economic data were monitored and reported. This broad coverage facilitated indepth analysis of economic issues, such as the strength and sustainability of the recovery, and also permitted a wide range of impact analyses under alternative policy options.

The Office of Policy monitored individual sectors and industries within the economy, in conjunction with increased analysis of macroeconomic activity. This capacity was especially useful in examining the impact of the recession and recovery on various sectors and industries; in analyzing issues such as structural unemployment and the identification of job training requirements; and in projecting the economic impact of potential strike activity.

The Office of Policy prepared a number of background papers, including a sectoral analysis of job generation over the past decade, and an overview of the conditions in the automobile industry preparatory to the bargaining round of the industry in the fall of 1984. Papers were also prepared on women's issues and on immigration reform. The Office also provided a series of briefing papers for use by the Secretary on his various trips throughout the country during the year. In addition, staff members participated in conferences relating to more cooperative labor-management relations and to econometric forecasting.

Research

During fiscal year 1984, the Office of Research provided analytical support and research guidance to assist DOL agencies with the design, management, and evaluation of Department of Labor programs. Activities included:

- Reviewing and critiquing reports evaluating the effect of Federal antidiscrimination law on employment and explaining inconsistencies between the studies' results;
- Providing the Assistant Secretary and the Secretary with background information and statistics relating to Youth Employment Opportunity Wage legislation, minimum wage effects on youth, Adverse Effect Wage Rates, and other areas of policy relevance;
- Examining women's economic progress in the labor market; and
- Evaluating research studies on various policy matters for the Secretary and the Assistant Secretary.

Internal office research subjects were the following:

- Investigating the issue of tenure and wage profiles for different firm-size categories for the United States and Japan;
- Developing measures of cyclical wage variability;
- Studying unemployment dynamics, differentiating between the incidence and duration of unemployment.

Contracted research studies were completed and reviewed in the areas of:

- Employment, earnings, and unemployment in local labor markets;
- Youth labor market policies;
- Employer/employee attachments;
- Black/white comparisons of earnings and unemployment.

In addition, the Office of Research continued its series of labor economics research seminars, drawing on qualified researchers from around the country.

Office of the Assistant Secretary for Administration and Management

During 1984 OASAM continued to emphasize increased administrative efficiency and to aggressively pursue cost reductions and service improvement initiatives. Inspired by Reform '88, the President's Management Improvement Initiative, the Department, under OASAM leadership, inaugurated a Reform '84 program to accelerate certain Reform '88 and other initiatives, and thereby achieve, through management improvement, dollar and full-time equivalents (FTE) savings necessary to meet mandated fiscal year 1985 budget reductions. Particularly significant were accomplishments in space, telecommunication, property, energy and printing management.

OASAM's space reduction program, for example, resulted in the release of 186,487 square feet, thus avoiding approximately $1.8 million in annual rental charges. In addition, particular attention was focused on developing a comprehensive program to relocate the Employment and Training Administration to the Frances Perkins Building (FPB), during fiscal '85. This consolidation in FPB will result in the release of an additional 194,254 square feet of rental space at an annual savings of $3.5 million.

A Telecommunications Strategy paper was developed to establish the foundation and objectives for the foreseeable future and a planned course of action to deal with changing technology and the restructured telecommunications industry. OASAM's telecommunications staff in the meantime continued to seek economies and improved management practices while preparing for the new technologies and restructuring. Specifically, facsimile and record communications equipment was updated and a pilot Federal Telecommunications System (FTS) usage information system, which will be expanded in fiscal '85, was implemented. The system provides comparative data on FTS usage patterns. In fiscal '84, FTS costs were $10.3 million, a reduction of $1.2 million from fiscal '83.

A major accomplishment during fiscal '84 involved reviewing and revising policy and procedures for the management of motor vehicles, forms and publications, and storage and distribution of personal property. The revisions improved accountability and reduced unnecessary or duplicative effort and associated costs. For example, over 4,000 units of personal property valued at approximately $1 million were released to the General Services Administration (GSA) Personal Property Center which, together with the elimination of obsolete forms and publications, enabled the Department to release warehouse space to the GSA.

Another major accomplishment was the planning for and procurement of equipment and software for automating the production, storage and distribution of forms which will result in a savings in warehousing and distribution costs of $250,000 a year.

Under OASAM leadership the Department continued to improve its program to provide a safe and healthful working environment for all its employees. An internal safety and health policy was revised to clarify responsibilities and procedures. Particular attention was focused on clarifying responsibilities for safety and health programs in the Job Corps which continues to be the area with the greatest potential for safety and health problems. This is because of the type of trades (mostly construction) for which training is provided, the large number of corps members receiving training each year, and the skill level of those entering the program. Constant vigilance and increased emphasis on implementation of the DOL Safety and Health Program are needed to ensure that all corps members are provided a safe and healthful living and working environment.

OASAM's Division of Health Services continued to provide diagnosis of job-related illnesses and injuries, physician-prescribed treatments, monitoring of blood pressure and diabetes, educational programs on stress, high blood pressure, cancer, and organ donation. The Employee Counseling Services Program (ECSP) has continued to broaden in scope to respond more effectively to both employee and management needs in areas of alcoholism, drug abuse, emotional/mental, family, and legal problems.

On July 1, 1984, OASAM established the National Capital Service Center (NCSC). The Center gathers under one organizational roof operational responsibility for the delivery of various administrative support services for OASAM client agencies. These services include personnel, procurement, administrative payments, and facilities management. The Center's goal is to improve service delivery and efficiency through economies of scale and to serve as a "laboratory" for innovative methods of improving operations. The emphasis in fiscal 1984 was on the automation of operational tracking systems.

One of the important efforts under the aegis of Reform '88 is increased emphasis on procurement management. OASAM continued its efforts to improve the Department's procurement systems. Preaward cost and price analysis services were instituted for the OASAM contracting office and they will be extended to ETA in fiscal 1985. The Federal Acquisition Regulations were implemented and supplemental departmental regulations were published as a proposed rule. A Certification of Contracting Officer policy directive was issued requiring upgrading of contracting officer education, training and effectiveness.

On the personnel management front, the Department launched its workforce planning system to monitor and project hires and separations and to foster in the DOL agencies the development of a long-range hiring strategy for filling agency vacancies. As a result, recruiting at entry-level for professionals has increased and we are beginning to fill the Department's career pipeline. In connection with the Department's Recruitment Program, OASAM designed and conducted recruiting training for managers and the personnel community. These sessions have provided management with effective recruiting tools and techniques for hiring quality entry-level candidates.

OASAM was also involved in developing a placement program for ETA employees affected by reduction-in-force. The program included specifically tailored training agreements, outplacement activities, job counseling, early-out retirement, and a special Department freeze on hiring at other than entry levels.

The Department continued to share its resources in the area of executive development with the Departments of Health and Human Services, Interior, Treasury, and Army. This has contributed to a wider range of SES executive forums being offered, and greater participation by DOL SES incumbents. During fiscal 1984, topics included procurement, situational leadership, entitlement programs and the Federal deficit, the Nation's economy, and a four-part series entitled "Improving the Quality of Working Life: Cooperative Labor-Management Initiatives."

Under the leadership and direction of OASAM's Office of Labor-Management Relations, the Department's involvement with unions representing its employees in the National Office and in the field continued at a high level during fiscal 1984. There were a number of mid-term bargaining sessions dealing with reorganizations, RIF's, new and revised regulations and the impact and procedures for effecting them, and new office space configurations and locations. The bulk of this activity led to negotiated memoranda of understanding with the unions. The two major collective bargaining agreements which the Department has with unions representing its employees were extended for one year, into fiscal 1985.

A session for the "Training of Trainers," a revised, updated labor relations course for managers and supervisors, was conducted for regional and agency labor relations officers. Those who received this training have in turn provided the new course to numbers of supervisors and managers in their respective regions and agencies.

OASAM's Office of Civil Rights (OCR) developed a questionnaire regarding the implementation of the Job Training Partnership Act (JTPA) and sent it to the primary recipients under JTPA: the 50 States, the District of Columbia, the Trust Territories, Puerto Rico and the Virgin Islands. The questionnaire was designed to elicit sufficient information about the methods of administration used to enforce equal opportunity and nondiscrimination laws so that OCR could assess whether the methods described were adequate to provide a reasonable guarantee of subrecipient compliance as required by 29 CFR 31.6(b). Where a State has established such methods of administration, OCR will normally not hold it liable for violations of equal opportunity and nondiscrimination law by its subrecipients, allowing the State to assume first-line responsibility for ensuring compliance.

OCR continued to expand its automated management information and case tracking system by adding subsystems to track onsite compliance, monitoring and preaward reviews, to account for workhours expended on cases, and to aggregate information on training and technical assistance activities.

A new Equal Opportunity poster in both English and Spanish was published and program-specific brochures were developed for each DOL federally assisted program explaining the rights of applicants, beneficiaries, and employees under these programs. A Memorandum of Understanding which established criteria for handling complaints and providing notification to complainants of their rights was negotiated with the Mine Safety and Health Administration.

OCR also developed, pursuant to an agreement between the Department and the Architectural and Transportation Barriers Compliance Board, a self-compliance plan to ensure that buildings owned or leased by DOL met applicable accessibilty standards in compliance with the Architectural Barriers Act of 1968.

OASAM's Directorate of Information Technology capitalized on the investment of minicomputers for support of data processing and office automation functions in OASAM national and regional offices and DOL agency administrative offices. The directorate completed installation of the minis and conducted the required training for use of the equipment. Concurrently, a giant step was taken towards modernization of departmental administrative systems through the use of the new technology.

Revision of ADP policies of the Department, inventory of ADP resources (hardware, software, and systems), initiation of an ADP security program that conforms to OMB Circular A-71, and implementation of a five-year planning process, have strengthened the Department's ADP policies and oversight of agency ADP activities.

During the year OASAM's Directorate of Management Policy and Systems (DMPS) assumed overall responsibility for the A-76 program in the Department. The purpose of A-76 is to achieve economy and enhance productivity in the performance of commercial activities in government operations. This is accomplished by conducting management studies to achieve the most efficient in-house operation, and subsequently conducting a cost comparison of the internal agency's operation and the private sector to identify and adopt the more cost-effective approach and thereby reduce the cost of government.

Under DMPS leadership a program of Information Resources Management reviews was continued within the Department to evaluate the effectiveness and efficiency with which information is collected, processed, used, stored, and managed during its entire life cycle. Regarding information collections, the Department reduced the paperwork burden imposed on the public again this year, this time by 13.1 percent from fiscal 1983 to fiscal 1984.

The Department has long been aware of rising mail costs. Programs encouraging the use of less expensive classes of service and other economical practices have helped to contain the expenses. In a search for alternate methods of reimbursing the postal service, the Department decided in fiscal '84 to try metering all the mail (envelopes, flats and parcels) originating in two of the regional offices. The purpose was to see what the effect would be on mailing costs, to observe the adjustments necessary for implementing a decision to adopt a metered mail system, and to test state-of-the-art electronic equipment. Dallas became operational on March 1, 1984; San Francisco on April 1, 1984; and Atlanta (which was added later) became operational on July 2, 1984. Preliminary evaluations are positive.

DMPS staff continued to assist DOL managers and their employees in the functioning of Employee Participation Groups (EPG). The EPG process continues to pay dividends; it is directed toward improving quality of service, reducing costs, and improving communications between employees and supervisors for a discussion of problems and concerns and the joint development of solutions.

This year marked the 100th anniversary of the collections of the Department of Labor Library which began as the Library of the Bureau of Labor within the Department of the Interior. Over 17,000 visitors, including officials from labor offices in Australia and New Zealand, made use of DOL's unique and valuable collection, and more than 12,000 reference questions were answered. The Library's Historical Office completed several research projects, including an update to the 10-year OSHA history.

With respect to field operations in all OASAM regions, considerable activity centered around the Department's move to modernize ADP equipment and systems. Much effort and attention was focused on cost reductions, particularly in space utilization and telecommunications. Regional OASAM offices participated fully in the Small Region Initiative, an effort to improve the efficiency of government operations. They also played a major role in minimizing the effects of the ETA reduction-in-force in the various regions. The following is representative of some of the individual accomplishments in several of the regions.

The Philadelphia regional OASAM, for example, had two noteworthy accomplishments. First, guided by the goals of the President's inauguration of the National Partnerships in Education Program, the regional office initiated the first phase of the program in a formal agreement with the City of Philadelphia which was the first formal agreement established.

Secondly, the President's goal of greater effectiveness and reduced costs was facilitated by instituting common administrative services between Labor and Health and Human Services within a regional office facility, the first such regional attempt.

Three OASAM regions (Atlanta, Dallas, and San Francisco) participated in a pilot project to test the feasibility of using a metered mail system to control and reduce postal costs. Although dollar savings are not immediately realized, efficiency of operations is apparent, and for the first time DOL agencies now have an accurate measure by which they can evaluate and control the cost of their mailings.

Selected regional OASAM program managers continued to provide support to national office efforts to modernize administrative systems. Specific payroll systems contributions of the Kansas City staff included development of a progressive systems acceptance process, initiation of a systemwide risk analysis, conduct of a field test of the Interactive Pay Maintenance Sub-system (IPMS) and the provision of training to payroll personnel from the selected regional offices in IPMS operations.

To demonstrate concern for improving the quality and cost effectiveness of delivery systems the San Francisco regional OASAM developed and administered a service self-assessment checklist and Agency service questionnaire. After conducting on-site field service visits and administering the questionnaire to regional office DOL client agencies, data from these instruments were summarized and used to develop service improvement plans.

The initiative has improved regional-field communication and demonstrated to client agencies OASAM's commitment to improving quality of service delivery systems.

In summary, the management improvement goals and accomplishments of the Department of Labor could not have been achieved had it not been for the hard work, initiative and dedication of the regional OASAM staff.

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Bureau of International Labor Affairs

The Bureau of International Labor Affairs (ILAB) expanded its involvement in foreign policy issues and brought several new programs into being during the year. These advances, along with a successful 1984 International Labor Organization (ILO) Conference, enabled ILAB to achieve its twin goals of making analytical contributions to the labor aspects of American foreign policy and assisting the Administration's understanding of the potential impact of foreign economic policy options on the American wage earner.

The most significant accomplishments during the year were as follows:

1. In the area of foreign relations, the Department of Labor
   - Entered into cooperative agreements with Israel and Japan.
   - Reviewed labor laws and practice in the 27 Caribbean Basin Initiative(CBI) countries with respect to the labor criterion in the CBI law. This is the first time labor practices have been made a specific condition in granting U.S. trade concessions.
   - Carried out major technical assistance projects in Saudi Arabia and the Bahamas and completed a project in Bahrain. Short-term technical missions were carried out in Ecuador, Egypt, Haiti, Indonesia, Jordan, Kenya, Lesotho, Mauritius, Paraguay, and Zambia.
   - Began production of a directory of international trade union organizations that will cover about 150 organizations.
2. In the area of international economic policy, DOL
   - Participated in several trade policy discussions including negotiations with Israel on a free trade arrangement, with Japan on greater U.S. access to their telecommunications market, with several developing countries on export subsidies, and with the Organization for Economic Cooperation and Development (OECD) on steel.
   - Took part in the interagency review of escape clause cases for copper and steel and began acting on directives from the President to develop plans for job training and other assistance to workers in these industries.
   - Chaired the Steel Advisory Committee subcommittee on Employment, Productivity and Adjustment Issues.
3. In the area of international organizations, ILAB
   - Worked with government, worker, and employer delegates

to the 1984 ILO Conference to deflect a major Soviet initiative to dismantle the ILO's human rights machinery.

- Participated in an OECD Conference on Employment Growth in the Context of Structural Change.

Foreign Labor Affairs

Secretary Donovan led an American delegation to Israel in March 1984 that participated in a joint U.S.-Israeli Conference on Labor in Changing Industrial Societies. In addition to officials from the Department of Labor and the Israeli Ministry of Labor, representatives of the trade union movement and employers in both countries also participated in the conference. The Secretary and Israeli Labor Minister Aharon Uzan signed an agreement to continue close Israeli-U.S. cooperation in labor areas through beneficial exchanges of ideas and experiences.

Also in March, ILAB, on behalf of the Department of Labor, entered into an agreement with the Australian Department of Employment and Industrial Relations (DEIR) for a cooperative Department-to-Ministry program similar to the one which the DOL has conducted with the Japanese Ministry of Labor since 1979. Under the Australian program, cooperation is planned in areas of labor statistics, occupational safety and health, labor-management cooperation and wage determination. The first steps in the cooperative program will include an exchange of technical materials, short-term visits to Australia by Associate BLS Commissioners Jerome A. Mark and Ronald E. Kutscher, and the placement of a DEIR employee with BLS for 1 year at DEIR expense.

Under the cooperative program with Japan, two seminars for Japanese businessmen on U.S. Equal Employment Opportunity laws were held in December 1983 in Tokyo and Osaka. These seminars had been requested by Japan's then Minister of Labor Ono when he called on Secretary Donovan in July of 1983. In addition, the exchange of information on the impact of robots and microelectronics on employment, and the exchange of bioassay results (tests to determine the toxicity of industrial chemicals) continued through the fiscal year.

ILAB is representing the Department of Labor on a State Department interagency committee on the Pacific Basin Project. The Pacific Basin Project, which is the outgrowth of a meeting held in Jakarta in July, involves the six countries of the Association of Southeast Asian Nations (Brunei, Indonesia, Malaysia, Philippines, Singapore, and Thailand) and five industrialized Pacific Basin nations (Australia, Canada, Japan, New Zealand, and the United States). Although it is too early to predict the type of activities in which the project will engage, the DOL expects to contribute significantly because the project's first-year theme is "Human Resource Development."

Caribbean Basin Initiative

ILAB participated in the interdepartmental teams which visited the countries included in the Caribbean Basin Initiative (CBI) and negotiated the entry of 20 countries into the program. ILAB's main role was to assess each country's compliance with the CBI law's labor criterion which is one of 18 criteria that the President considers in deciding to designate a country for CBI benefits. The labor criterion relates to whether a country has "reasonable workplace conditions" and permits workers "the right to organize and bargain collectively."

The CBI discussion in several of the countries led to significant commitments on the part of the foreign governments regarding labor rights. In Haiti, the government announced that labor federations were permitted, and shortly thereafter, a new labor federation was formed. In Honduras, the government agreed to send inspectors into the free zone to assure that workers knew their rights. In the Dominican Republic, the government agreed to make improvements in the working conditions of the Haitian migrant sugar cutters.

The Department of Labor formulated CBI program proposals for review by the CBI interagency task force dealing with vital skills and on-the-job training in many of the countries designated beneficiaries under the CBI program. Also during 1984, ILAB began planning for the U.S. Government participation in the April 1985 Organization of American States (OAS) Conference of Labor Ministers in Costa Rica. A major topic of discussion will be employment policies and conditions of labor in the Americas Region.

American Labor Attachés

The Departments of State and Labor held conferences in New Delhi for Foreign Service Labor Attachés stationed in Asia and Africa; in Vienna for labor officers assigned to Europe; and in Panama for labor officers assigned in Latin America. As a result of a change in the Foreign Service reporting procedures initiated by the Department of Labor, *Labor Trends Reports* on over 55 foreign countries are now available for public distribution through the Department. The Department continued to participate in the management of the Foreign Service through the Board of the Foreign Service and the Board of Examiners. The Department also provided voting members for Foreign Service promotion panels.

International Technical Cooperation

During the past fiscal year, ILAB continued to provide technical cooperation services to developing countries under funding provided by the Agency for International Development (AID). ILAB provided short-term technical assistance missions to Panama, Argentina, Uruguay, and Egypt. Through its own advisers and those recruited by the Bureau, ILAB also furnished AID-funded long-term technical assistance services to Panama, Egypt, and AID/Washington.

In addition to Federal employees, ILAB recruited advisors from American State and local governments to provide technical assistance that would satisfy the requirements of AID in such areas as labor market information, vocational education, and manpower planning.

Short-term diagnostic missions, those conducted to determine the nature of technical assistance needed, were carried out in Indonesia, Jordan, Kenya, Egypt, Lesotho, Zambia, Mauritius, Ecuador and Paraguay.

The Saudi Arabian Vocational Training and Construction Project (VOTRAKON) continued to be ILAB's principal foreign-financed technical cooperation project.

This 9-year project, funded entirely by the Saudi Arabian Government and now in its eighth year, has emphasized the upgrading of vocational training as well as construction of new training and related housing facilities. The more than 50 long-term and a cadre of short-term U.S. advisors are responsible for the training of Saudi "counterparts" and for providing direct assistance in establishing a sound foundation for all aspects of the kingdom-wide vocational training system.

During the project, over 100 Saudi Arabian trainees have completed 2-year programs in the United States and returned to their country to serve as instructors, instructor-trainers, on-the-job training directors, training center administrators and instructional media developers. Twelve Saudi students now in U.S. training are scheduled to complete the associate degree in August 1985; four other Saudi students have begun the junior year of a baccalaureate degree program. Another group of students is expected to begin their U.S. training early in 1985.

Now under development is a Brother Institution Program which will link selected U.S. colleges and universities in agreements with Saudi institutions that permit students to transfer academic credits earned in Saudi Arabia toward degree programs in the United States. It is expected that this program will be in operation late in 1985.

Field testing and further development continued during the fiscal year on the curriculum materials for eight skill trades. Three of the eight trades are over 90 percent completed; all eight will be completed by July 1985 with the exception of some residual media production being carried out through Saudi Arabian media contractors. Equipment and furnishings were specified for all facilities under construction, including the new Instructor Training Institute (ITI).

A contract for the development of eight ITI curricula was let to National Education International (NEI) to be completed by August 1985. Progress during this fiscal year has proceeded on schedule with no major problems.

U.S. development of a competency-based, individualized, and mediated methods course for professional instructor trainers was completed and is now implemented as a part of the ITI pedagogical training program.

A vocational skill assessment and career information system, installed under contract by Singer Corporation, has been successfully operated on a pilot basis in the Riyadh Pre-Vocational Training Center.

Progress has continued on the development of an on-the-job training (OJT) system, focusing on the cities of Riyadh, Jidda and Dammam. Major emphases continue to be the development of job certification standards and procedures, installation of job certification testing sites, standardization of position titles and job performance standards, training of industrial trainers and providing them with training materials, definition of a kingdomwide information network, public relations and promotional awareness programs, registration of companies for OJT subsidy programs, and the establishment of cooperative programs with one or more U.S. institutions for the awarding of associate and baccalaureate degrees in OJT.

U.S. advisors have assisted the General Organization for Technical Education and Vocational Training (GOTEVOT) by providing recommended administrative and policy guidelines covering eight distinct operational areas ranging from administration within the GOTEVOT headquarters to development of a youth incentive contest program throughout the vocational training system.

Advisor services in the areas of engineering, construction, inspection, operations and maintenance and occupancy of vocational training facilities have continued throughout this fiscal year. U.S. responsibility extends to 18 of the 28 facilities. Of these, 9 are ready for occupancy or are being occupied, 5 are experiencing delays because of contractor difficulties unrelated to U.S. advisor services, 1 is ready for occupancy but in need of resolution of a ground-shift problem, and 3 (including the Instructor Training Institute) are on schedule for 1985 occupancy. U.S. advisors have developed comprehensive plans for operations and maintenance (O&M) of all GOTEVOT facilities and are providing assistance in developing a graduated implementation plan.

Among other foreign-financed programs, agreements for assistance were operative in Bahrain and the Bahamas. While the Bahrain project was phased out during the fiscal year, the project with the Bahamas is scheduled to continue through December 1986. During fiscal 1984, 13 U.S. specialist advisors visited the Bahamas on short-term assignments. Sixty-six Bahamians came to the United States for vocational teacher training.

International Visitors

During the fiscal year, the Bureau of International Labor Affairs continued to provide programming services to AID and the International Labor Office. AID-financed programming was arranged for 85 trade union officials and 37 others from 43 countries. Thirty grantees under ILO auspices were handled. ILAB also arranged and coordinated the activity within the Department for more than 850 international visitors.

Production of a directory of foreign labor organizations continued during the year. The directory lists foreign labor federations, their affiliates and other independent unions in some detail. Once completed, the directory will cover 210 countries. Activity has begun to develop a directory of international organizations operating in the international trade union sphere of which there are approximately 150.

International Economic Affairs

The Bureau of International Labor Affairs continued its activities to promote the interests of American workers in the area of international economic policy. Acting through its membership in the various interagency committees charged with trade policy functions, the Bureau:

- Participated in the negotiations of a free-trade area with Israel which would eliminate all tariff and nontariff barriers on industrial and agricultural products.
- Participated in preliminary discussions with Canada on free-trade areas in agricultural equipment, specialty steel, informatics and urban mass transit equipment.
- Took part in negotiations leading to the renewal of the Nippon Telephone and Telegraph Agreement with Japan which would allow U.S. companies to better participate in the telecommunications equipment purchases of the NTT company.

- Reviewed the trade effects of industrial targeting practices whereby countries select certain industries for special government aid (for example, subsidies and trade restrictions) to promote international competitiveness.
- Contributed to the development of U.S. policy on trade in high technology goods and services, including discussions with the European Communities (EC) and Japan on this matter; assisted in the formulation of a U.S. policy on investment.
- Participated in policy activities relating to developing countries, including bilateral discussions with Singapore, Mexico, and Uruguay concerning their export subsidies, and administration of the U.S. Generalized System of Preferences.
- Participated in meetings of the OECD steel committee focusing on the development of long-term solutions to the problems of international trade in steel.

The Bureau continued as a principal member of U.S. delegations for the negotiation of bilateral agreements on textiles within the framework of the Multi-Fiber Arrangement. Three new bilaterals were concluded making a total of 30 such agreements. It shared interagency efforts to carry out President Reagan's commitment to relate growth in textile and apparel imports to growth in the U.S. textile and apparel industry. The Bureau also participated in efforts to assist U.S. Customs Service in its attempt to close loopholes in regulations concerning the determination of the country of origin for textile and apparel imports.

Import Relief

The Bureau participated actively in the interagency review of U.S. International Trade Commission recommendations to grant import relief under Section 201 of the Trade Act of 1974 to the domestic copper and carbon and alloy steel industries. In both cases, the President decided that granting import relief was not in the national economic interest. In the copper case, the President directed the Secretary of Labor to work with State and local officials to develop a plan of job retraining and relocation assistance for copper workers. In the carbon and alloy steel case, the President directed the Secretary of Labor to develop a similar program for steel workers as part of a broader policy for the steel industry which includes strict enforcement of our unfair trade laws, negotiation of "surge control" arrangements with selected trading partners, consultations with our trading partners aimed at liberalizing international trade in steel, and analysis of U.S. Government domestic tax, regulatory and antitrust laws and policies that could hinder the ability of the steel industry to modernize.

Other import relief cases in which the Department was actively involved included a Section 201 for the motorcycle and specialty steel industries; Section 301 cases covering footwear and satellite launching services; and Section 232 (national security) cases covering industrial fasteners and machine tools.

Advisory Committees

The Bureau continued to provide staff support to the Labor Advisory Committee for Trade Negotiations and Trade Policy which advised ILAB and the Office of the U.S. Trade Representative on issues of concern to labor involving trade negotiations, operation of trade agreements once entered into, and other matters arising in connection with the administration of U.S. trade policy.

The Committee includes representatives from the AFL-CIO headquarters, 7 ALF-CIO departments, 34 ALF-CIO affiliated unions, and 4 independent unions. A Steering Subcommittee of the Labor Advisory Committee, composed of key labor advisors, meets monthly for consultations on a wide range of current trade and related issues.

The Steel Advisory Committee (SAC) was established on November 3, 1983 by the Secretary of Commerce and the Secretary of Labor. Its purpose was to provide advice and make recommendations with respect to problems within the domestic steel industry affected by such international and domestic issues as trade laws and trade policy, U.S. antitrust laws, U.S. tax laws, employment, productivity and community issues, capital formation, investment and modernization. Membership in the SAC consisted of representatives of steel companies' management, organized labor and U.S. Government.

The Bureau chaired the SAC Subcommittee on Employment, Productivity and Adjustment Issues. At the May 1984 meeting, the subcommittee adopted a series of consensus findings and recommendations that were subsequently transmitted to the co-chairs for appropriate action. ILAB also participated in the activities of the SAC Subcommittees on the State of the Industry, Trade Issues, Industry Rationalization and Capital Formulation.

Immigration

In the field of immigration, ILAB continued its participation in the formulation of U.S. immigration and refugee policy and the coordination of immigration policy development within the Department. ILAB played a major role in the Interagency Task Force on Immigration and Refugee Policy and worked actively with the rest of the Administration for the enactment of the Immigration Reform and Control Act of 1984.

ILAB also has the lead role for the U.S. Government in international organizations on issues relating to international labor flows. In this capacity, ILAB staff represented the United States on the OECD Working Party on Migration and served as an observer at the U.N. General Assembly Working Group on the Elaboration of an International Convention on the Protection of the Rights of All Migrant Workers and Their Families. ILAB also played a major role in a planning session for the development of a proposed international team of experts on international migration issues.

ILAB continued to conduct analyses of the economic, social, and political aspects of legal and illegal migration and refugee movements, both within the United States and internationally.

Foreign Economic Research

DOL's foreign economic research program is designed to determine the effects of foreign economic developments on the earnings and employment of U.S. workers. This includes quantitative analysis of policies affecting international trade, investment and technology transfer, and immigration. The research is often undertaken to meet congressionally mandated studies of requests from other executive branch agencies and is performed by a staff of in-house economists supplemented by outside contractors.

The research studies undertaken during fiscal 1984 covered (1) a study of the trade and employment effects of the proposed U.S.-Israel free-trade area; (2) an evaluation of alternative product and country graduation proposals for renewal of the Generalized System of Preferences; (3) an analysis of the specialty steel industry; (4) an analysis of various remedies for the basic steel, copper, and stainless steel flatware industries; (5) a review of government-sponsored studies on the effects of technology on employment; and (6) an analysis of the employment growth and labor intensiveness in the U.S. computer industry.

Cooperative work with the Japanese Ministry of Labor continued during fiscal 1984. A draft final report of a comparative study of employment adjustment policies in the United States and Japan is awaiting approval by the Japanese Diet before being released. An information exchange program between DOL and Japan's Ministry of Labor has yielded important information on the Japanese experience in adjusting to technological change in the workplace.

A cooperative program with the Australian Department of Employment and Industrial Relations was initiated during fiscal 1984. Preliminary work was begun on a cooperative research effort with an exchange of information on wage determinations and labor market adjustment.

International Organizations

ILAB is actively involved in several international organizations, chief among them the International Labor Organization (ILO) and the Organization for Economic Cooperation and Development (OECD).

ILAB guides U.S. participation in the ILO in coordination with DOL domestic units, other U.S. Government agencies, U.S. workers and employers, and governments, workers and employers worldwide. U.S. priorities in the ILO are guided by the objectives set by the President's Committee on the ILO, chaired by Secretary of Labor Donovan, and by its two subgroups, the working-level Consultative Group and the Tripartite Advisory Panel on International Labor Standards. These continuing objectives focus on improving the ILO's human rights machinery (with a focus on the vigorous pursuit of Communist bloc violations), promoting U.S. priorities and cost-effectiveness in ILO program activities, increasing the use of private sector resources in the ILO, and discouraging ILO activities that may be counter to U.S. interests.

Major ILAB accomplishments in the ILO in fiscal 1984 included: (1) effectively lobbying with government, worker and employer delegates to the 1984 ILO Conference to ensure defeat of a major Soviet initiative to dismantle the ILO's human rights machinery; (2) initiating and coordinating private sector exhibit/receptions in connection with ILO meetings on hotels and restaurants (December 1984) and noncoal mines (January 1984); (3) continuing the analysis of the ILO's program activities, indepth discussions with the ILO Secretariat on program priorities, and improved coordination with other large contributor governments, in preparation for the discussions of the ILO's Program and Budget for 1986–87; (4) completing the first in a series of assessments of ILO technical assistance activities (an analysis of ILO fellowship programming); and (5) initiating programming services for international visitors supported by ILO fellowship funds, taking initial steps to increase the number of ILO fellows coming to the United States, and publicizing fellowship training opportunities in the United States.

As concerns the OECD, ILAB represents the U.S. Government in meetings of the OECD's Manpower and Social Affairs Committee (MSAC) and coordinates participation in its subsidiary bodies. U.S. participation in the OECD focuses on identifying trends and problems in the manpower and social affairs area and discussing policy options. The subjects covered are employment policy, industrial relations, employment and unemployment statistics, migration, women in the economy, social policy, and initiatives for local employment. Specific accomplishments in fiscal 1984 included: (1) participation in the OECD Conference on

Employment Growth in the Context of Structural Change, and (2) introduction of a program priority rating system, which was accepted by the Secretariat, to aid in establishing priorities for proposed activities in 1985.

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Women's Bureau

The Women's Bureau has addressed issues affecting women in the labor force for 64 years, changing focus with the times. During fiscal year 1984, the Bureau continued to broaden the base of women's groups it serves in order to reach more effectively *all* categories of working women.

The list of its beneficiaries is long and includes older women, low-income women, women in need of reemployment or upward mobility, teenage women who need help in career planning, rural women, minority women, women seeking nontraditional jobs, corporate women, union women, and homemakers displaced by widowhood, divorce, or separation.

Specific activities ranged from promoting training opportunities for economically disadvantaged women to examining ways in which corporations can move more women into key management positions.

As in the past, Bureau activities during fiscal 1984 fell into four broad categories: programs to improve and expand employment opportunities, economic research initiatives, international activities, and information sharing.

Programs to Improve and Expand Employment Opportunities

JTPA National Initiative—The Women's Bureau launched a national initiative on the Job Training Partnership Act (JTPA) to promote widespread understanding of the enormous potential the legislation has for improving the economic status of women. This took the form of a series of 20 workshops planned and conducted by the Bureau under the theme "JTPA—Its Implementation and Impact on Women." The workshops brought together over 2,400 community leaders, government officials, JTPA program operators, and representatives of women's groups, business, labor, and education to talk about training opportunities for women and the best ways to provide them under the law.

In all of the sessions, participants were candid about raising issues critical to serving the needs of women and recommended strategies for increasing JTPA's effectiveness for women. The law, which replaced the Comprehensive Employment and Training Act (CETA), went into effect Oct. 1, 1983. By working with key people early in the program's operational phase, the Bureau hoped to ensure that women were familiar with the act's provisions, so they could take full advantage of the services from the beginning. The agency also used the workshops to help those responsible for

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implementing the legislation become more knowledgeable about the concerns of women.

Women stand to benefit significantly from the legislation because (unfortunately) they comprise large proportions of JTPA's target audiences: economically disadvantaged adults, youth, and dropouts; persons who encounter barriers to employment such as displaced homemakers and teenage parents; and older persons existing below the poverty level.

Cities that hosted workshops, the first of which was held in January 1984, are Chicago, Concord (N.H.), Dallas, Dayton, Denver, Detroit, Des Moines, Indianapolis, Los Angeles, New Britain (Conn.), Orlando, Paramus (N.J.), Phoenix, Pittsburgh, Reno, Sacramento, Salt Lake City, Spokane, Topeka, and Tuskegee (Ala.).

The model workshop format developed for the JTPA initiative proved to be a valuable tool for information sharing and strategy development regarding women and the federal training legislation.

Employer-Supported Child Care—In response to working parents' need for affordable, quality child care, the Women's Bureau continued its efforts to promote the concept of employer-supported child care systems.

To this end, the Bureau produced a 23-minute videotape illustrating the wide range of programs that employers are using and can tailor to meet the needs of their workers and communities. Options examined in "The Business of Caring" range from full-scale commitment through the establishment of an on- or off-site center to providing parents with information and referral services. The tape, the first such film of national scope, is available for loan or purchase.

For the third year, the Bureau provided funds to a joint Women's Bureau-Rockefeller Foundation project, allowing four community-based organizations (CBO's) to demonstrate effective techniques for providing child care services to low-income female heads of households enrolled in their training programs. (The CBO's—located in Providence, R.I., Washington, D.C., Atlanta, and San Jose, Calif.—received money from the Rockefeller Foundation for the training component of the joint venture.) Bureau support also provided for an increased awareness on the part of local employers as to the benefits derived from employer-supported child care, benefits such as increased productivity, decreased absenteeism, and improved morale.

The 18 employer-supported child care systems established with Bureau assistance across the country in fiscal 1983 continued to generate "spin-off" activities in terms of task forces, seminars, planning groups, and a general increase in employer involvement.

Through its regional offices, the Bureau cooperated with the White House Office for Private Sector Initiatives in planning meetings with chief executive officers in 14 cities on the benefits and implementation of employer-supported systems.

Bureau publications dealing with the issue, including a how-to guide for employers and information on tax legislation, remained in demand, and nearly 10,000 copies were distributed. During the year, technical assistance was also provided to approximately 900 researchers, consultants, employers, members of the media, and students, among others.

Staff members were keynote speakers and panelists at conferences and workshops on meeting the need for child care. In its capacity as a major Federal resource on work-related child care, the Bureau acted as a liaison with the White House, Federal agencies, commissions on women, and community-based organizations.

Project IDEA—In its second and final year, this pilot effort of the Bureau to offer vocational technical training to mature women in a rural area again operated effectively at Coahoma Junior College, Clarksdale, Miss. Emphasis remained on nontraditional skills. There were 57 participants in Project IDEA (Individual Development and Entrepreneurial Activities), including 19 new enrollees; 20 majored in data processing (added to the curriculum in the second academic year of the program), 31 in carpentry, and 6 in industrial wiring.

The women started in class with a variety of educational backgrounds, and each was encouraged to learn at her own best speed. Career counseling and some child care were provided, as well as job placement services. All participants were given basic adult education, which led to the awarding of several high school equivalency diplomas. Three of the industrial wiring students earned their 2-year college degrees along with scholarships from the U.S. Department of Energy.

At the conclusion of the project, approximately 50 percent of the trainees had been placed, in every case at upgraded job skills levels.

Women in Nontraditional Careers—Women in Nontraditional Careers (WINC) is a program developed by the Bureau that stresses nontraditional career options for teenage women. During fiscal 1984, the Bureau revised its WINC Curriculum Guide, a tool for institutionalizing the concept within the public school system, and added to the program a new "partnership" dimension that further demonstrates effective school, community, and Government collaboration in preparing young women to make the transition from school to the workplace.

By means of regional workshops, training in the WINC concept is provided to school personnel and administrators, and other representatives of the community, to encourage and facilitate the adoption of a nontraditional career planning program by public school systems and guidance on how to adapt such a program to the specific needs of a school district.

The 1984 edition of the WINC Curriculum Guide provides updated statistics and an expanded concept of instruction. While the focus of the lesson plans and activities remains on junior/senior high school girls, the revised guide addresses related needs of male students, ethnic/racial groups, and rural populations.

It also places increased emphasis on current and developing opportunities in occupational fields featuring mathematics, technology, and the sciences. Thirty-one school districts and three colleges are currently using all or part of the WINC Curriculum Guide.

The "partnership" dimension was demonstrated in Wilmington, Del., with E. I. du Pont de Nemours and Company hosting a WINC workshop for 31 participants, and in Manchester, N.H., with the State Department of Education cosponsoring a workshop for 50. The Women's Bureau also was invited to make a presentation for vocational education personnel at the Pennsylvania Vocational Education Conference.

Displaced Homemakers—The Bureau's experimental and demonstration effort to assist displaced homemakers so they can earn their own livelihood was twofold: financial support for a project to train rural women that will serve as a model for use in small communities, and funding of the Displaced Homemakers Network, Inc., a national nonprofit organization that provides coordination, assistance, and advocacy for displaced homemaker efforts.

The rural project is operated by the Phoenix Institute, of Salt Lake City. Under the terms of its contract with the Bureau, the Institute is providing occupational development, counseling, and training for 100 women through two satellite centers, one in the northern and one in the southern part of Utah.

The network provided technical assistance to hundreds of displaced homemaker projects across the country, disseminated manuals on small business options and exemplary projects, produced a quarterly newsletter, developed a training program in entrepreneurship, and prepared an updated directory of programs across the country that aid this client group.

Women Offenders—The Bureau continued to provide technical assistance to officials in the State and Federal prison systems who express interest in making apprenticeship training available to women inmates. In fiscal 1984, the model program effort at the

Federal Correctional Institution at Alderson, W. Va., trained as many as 80 women at one time in 19 apprenticeable trades, mostly nontraditional for women.

In a further effort sponsored by the Women's Bureau, the Network on Female Offenders held quarterly meetings to share information and ideas on the problems and needs of women in prison.

Corporate Linkage—A corporate roundtable was sponsored by the Bureau to address the problem of the continuing underrepresentation of women in key management posts of major corporations. The roundtable, consisting of representatives from major corporations, developed a model for a government/corporate/academic linkage program that would assist the private sector to advance more women to middle and senior management positions.

Roundtable participants almost universally agreed that affirmative action enforcement procedures had been essential to create a pool of women in entry-level management, but they felt strongly that additional strategies are necessary to move more women up the corporate ladder.

Symposia—Employment-related issues of concern to women were the subjects of nine Bureau-sponsored symposia. The final reports of each conference, with findings and recommendations, will be published in a single volume. The issues covered, the groups who conducted the symposia under contract to the Bureau, and locations of the conference are the following:

- Dislocated Women Workers (Willamette University, Salem, Ore.);
- Project Discovery: Outreach and Support to Minority Women Who Are Seeking to Enter or Reenter the Work Force, Who Have Lost Jobs, and Who Are Trying to Move Out of Unfulfilling or Dead-end Jobs (The Links, Inc., Baltimore, Md.);
- Women Workers in Western New York: Employment, Unemployment, and Effective Reemployment Strategies (State University College at Buffalo);
- Women and High Technology Employment (Resource Center for Women, Palo Alto, Calif.);
- The Women's Roundtable—Upward Mobility in the Corporate Structure (William Karp Consulting Co., Inc., Chicago);
- Older Women and Their Issues: A Dialogue with Public Policymakers (Older Women's League, Washington, D.C.);
- Exploring Career Options in Science, Mathematics, and Technology (Spelman College, Atlanta);

- Employment Problems of Women Caused by Dislocation and Displacement (National Association of Negro Business and Professional Women's Clubs, Inc., Washington, D.C.); and
- Increasing the Enrollment of Girls in Math and Science Courses (League of Women Voters Education Fund, Washington, D.C.).

Program Guides—Eight program guides were produced (for publication in fiscal 1985) describing Women's Bureau pilot projects completed over the past few years, to help others duplicate the initiatives. The guides are titled:

- National Women's Employment and Education Project—how to train and place low-income women in private sector employment, with emphasis on occupations providing higher pay and greater benefits.
- Employment-Focused Programs for Adolescent Mothers—how to provide support services to reduce the high school dropout rate and/or promote the teenage mothers' return to school, as well as encourage the broadening of occupational horizons.
- From Homemaking to Entrepreneurship: A Training Program—how to prepare displaced homemakers to reenter the labor force as small businessowners after long periods as homemakers.
- Women in Apprenticeship and Nontraditional Jobs—how to promote access to the apprenticeship system for more women, and generate community awareness of sex segregation in employment, leading to increased training opportunities for women in the apprenticeable and nontraditional occupations where women are underrepresented.
- The Coal Employment Project—How Women Can Make Breakthroughs into Nontraditional Industries—how to remove barriers in a given industry to open large-scale employment opportunities for women, and how to help women make deeper inroads in male-intensive industries.
- Job Training in Food Services for Immigrant and Refugee Women—how to provide improved language skills training, as well as instruction in marketable skills in food services, to nonprofessional immigrants adjusting to American society.
- Promoting Women's Employment and Training Opportunities Through Networking—how to develop networks at the community, State, regional, and national levels, to promote employment and training opportunities for women.
- Employment and Training for Rural Women—how to develop or expand training and employment services responding to the special needs of women in geographically isolated areas.

The how-to guides were written for use by community-based organizations and by local and State governmental units concerned with increasing the employment opportunities of women and assisting them toward achieving greater economic self-sufficiency. The business community also may find the various training concepts useful.

Technical Assistance Guides—Eight technical assistance guides (TAG's) were prepared (for fiscal 1985 publication) to help the staff of Job Training Partnership Act programs, service providers, and other resource agency personnel address issues related to improving employment opportunities for women and the development of program plans.

TAG themes are: Women with Special Needs; Barriers to Women's Employment; Recruitment, Intake, Assessment, and Counseling; Training; Job Development and Placement; Alternative Scheduling; Programing for Women in the Private Sector; and Program Self-Evaluation.

The TAG's do not advocate separate programs for women, but rather the addition of services or components as required to ensure a woman's success both in training and on the job. Each pamphlet in the series identifies a problem and suggests ways to solve it. For example, the TAG on barriers to women's employment reports more than a dozen methods which various communities have used to secure transportation for trainees who otherwise might not be able to attend class; it also addresses health care needs and describes how fitness programs can prepare women for physically demanding nontraditional jobs.

Economic Research Initiatives

Five research projects under Bureau sponsorship were in various states of development during the fiscal year. Findings will identify areas for demonstration activities and aid in designing programs and policies that address employment problems unique to women. The research concerns the following:

- Evaluating the impact of technological change on women's employment. The Bureau places a high priority on this project because technological change promises to affect the demand for women workers, the nature of their work, their wages and opportunities for occupational mobility, and their needs for training and retraining. As part of this project, the Bureau began a major effort to help women clerical workers make the new world of computer technology work to their advantage. Plans called for a symposium to be held on "Women, Clerical Work, and Office Automation: Issues for Research" in early fiscal 1985 and for a series of publications.

- Identifying the patterns of job changes among women in professional occupations, and programs and practices that have helped women to change careers and, ultimately, upgrade their careers.
- Assessing the needs of newly arrived immigrant women, to help them toward economic self-sufficiency.
- Analyzing specific causes of the involuntary dislocation of women workers, factors leading to dislocation, and policy recommendations to improve the situation.
- Analyzing the kind of placement services that help women veterans find jobs and evaluating the transferability of skills women acquire while in the armed services to civilian occupations.

International Activities

The Bureau had a prominent role in international activities that promote the welfare of women in the labor force around the world.

The Bureau director is an elected vice chair of the Organization for Economic Cooperation and Development's (OECD) Working Party No. 6 on the Role of Women in the Economy. She met with the Working Party in Paris to present the U.S. Government's position on studies concerning a wide range of issues affecting women in OECD member countries.

The director also played an important part in developing the Working Party's 1985 program of work and suggested areas of study for after 1985. To voice a concern of Working Party No. 6—that issues having an impact on women as workers be integrated into all OECD committees and programs—she attended a meeting of the OECD's Manpower and Social Affairs Committee.

The Bureau provided technical assistance to the U.N. Commission on the Status of Women, the preparatory body for the 1985 world conference on the U.N. Decade for Women to be held in Nairobi, Kenya, and participated in interagency meetings to establish guidelines for U.S. participation in the conference. The staff continued to respond to a variety of requests from around the world for information about policies and programs affecting women in the U.S. workforce. In fiscal 1984, the Bureau's staff conducted briefings involving more than 80 international visitors and labor attachés on the programs of the agency and issues concerning wage-earning women.

Information Sharing

Providing information and sharing views on employment issues concerning women has been a major function of the Women's

Bureau since the agency was established in 1920. This is accomplished primarily through publications, conferences, and liaison with constituency groups.

Some 170,000 copies of Bureau-prepared materials were distributed nationwide to individuals and organizations during fiscal 1984. These materials concerned women's occupations, earnings, and labor force participation; successful model programs; employer-supported child care; and Federal laws affecting women's economic and employment status. New publications prepared during the year include:

- The 1984 edition of *A Working Woman's Guide to Her Job Rights*. Twenty thousand copies of this perennially popular booklet were distributed during the first month after publication.
- *Time of Change: 1983 Handbook on Women Workers*. This 192-page publication contains information on the worklife experiences of women and their economic and legal status, as well as effects of legislation on their employment. Over 1,000 advance requests for the handbook had been received by the time it was delivered from the printer the last month in the fiscal year.
- *Women on the Job: Careers in the Electronic Media*. Nearly 10,000 copies of this booklet, a joint effort of the Bureau and American Women in Radio and Television, were distributed during the year.
- *Twenty Facts on Women Workers*. This statistical fact sheet, also received at the end of the year, was expected to receive as wide a distribution as earlier editions.

In addition to printed materials, the forum of conferences, symposia, and workshops was used as a means of communication. The Bureau director and deputy director made nearly 100 presentations, a large proportion of which were keynote speeches at major conferences; other staff members—national and regional—presented information as main speakers and panelists at meetings and workshops.

The Bureau maintained its liaison with large numbers of constituency groups—women's organizations, State and local commissions on the status of women, and labor union women—to create and strengthen networks for the exchange of information and ideas. This continuous circulation of information enables the Bureau and its constituency groups to share ideas, plans, and concerns related to women's employment.

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Office of Inspector General

The work of the Office of Inspector General (OIG) during fiscal year 1984 continued to focus on improving the efficiency and economy of the Department of Labor's programs and operations. The OIG completed its sixth fiscal year aided by close cooperation with the Department's agencies, innovative applications of computer technology in audits and investigations, and a new focus on awareness training. Convictions in labor racketeering investigations reached a record high—a 215 percent increase over fiscal year 1983—and labor racketeering indictments increased 38 percent. Fraud investigations, which focus on the Department's programs and operations, had a 65 percent increase in indictments and a 48 percent increase in convictions over fiscal 1983.

The OIG had a major audit advisory role in the closeout of the Comprehensive Employment and Training Act (CETA) program. Working closely with the Employment and Training Administration (ETA), the OIG conducted phasedown reviews at 107 sites that posed the greatest risk of closeout problems. Although the OIG expended $7 million on this effort, the audit work allowed ETA to disallow and request repayment of $16.5 million from the CETA grantees. Followup reviews of 52 prime sponsors and other additional reviews identified $46.5 million in audit exceptions.

Continued attention was focused on the Job Training Partnership Act (JTPA) program. A major cash management review was completed by the OIG that found inefficiencies in the management and use of cash. The OIG began work with ETA to develop an approach calling for the awarding of discounted Federal funds to grantees at the beginning of the grant period. A review of participant eligibility was begun, to determine, in a statistical sample of 80 JTPA service delivery areas, whether the program is serving the individuals whom the act intended.

Cooperation with ETA also continued in the Job Corps program, specifically in solving major internal control and management deficiencies identified in audit studies. ETA is considering the establishment of a task force to devise a plan to improve Job Corps' accountability and strengthen relationships with State and local entities administering JTPA funds.

The OIG completed several studies relating to the Unemployment Insurance (UI) program's tax revenue operations. The studies found serious internal control and management problems with State agency operations that result in inefficiencies and lost interest earnings. A joint OIG-ETA task force was established to address major UI issues.

Investigations involving schemes to defraud the UI program included several significant cases, especially in fictitious employer schemes. Heavy audit and investigative efforts were employed in the UI program during this fiscal year and will continue.

A computer match compared payroll information from seven Federal agencies with unemployment benefit payments in 14 States. The completed OIG review found that 1,137 Federal employees received $609,361 in UI benefit payments while on the Federal payroll. Included in these overpayments were 166 cases totaling $79,889 for the Department of Labor.

The OIG also completed a computer match in the ongoing Federal Employees' Compensation Act (FECA) project matching FECA records against other compensation, retirement, and employment records. A match against the payroll of the Tennessee Valley Authority (TVA) disclosed $19,000 in overpayments made to four TVA employees. Another FECA match that began last fiscal year and not yet completed, has, to date, identified overpayments of approximately $5.6 million. This match involved individuals concurrently receiving FECA disability or death benefits and Office of Personnel Management (OPM) retirement or survivor annuities. It was conducted in conjunction with the Office of Workers' Compensation Programs (OWCP) and OPM, who have substantially completed the resolution of the findings. For several years, the OIG has been urging publication of regulations for reforming and improving the administration of FECA. During fiscal year 1984, final regulations were published on the suspension and debarment of medical providers who defraud the Government or engage in certain abusive billing, treatment, or reporting practices regarding FECA.

The OIG conducted a survey of the Labor-Management Services Administration (LMSA) that identified problems dealing with enforcement and resource allocation issues. In January, the Secretary of Labor effected a reorganization of LMSA that made LMSA's Pension and Welfare Benefit Programs area a separate departmental agency. The Inspector General was appointed to the Reorganization Task Force to facilitate the transition. The Deputy Inspector General was appointed vice chairman of an enforcement working group established to evaluate enforcement needs and resource requirements for the new Office of Pension and Welfare Benefit Programs.

The OIG began using portable microcomputer technology for the first time to develop evidence that will be used in trial both in labor racketeering cases and fraud cases. The use of the microcomputer for audits and investigations has allowed the OIG to increase productivity, and improve and broaden analytical methodologies in field and remote operations.

Integrity awareness programs, tailored to the specific needs of the various departmental programs, were developed. The first program was initiated with employees in OWCP working with FECA. Areas covered included standards of conduct, ethics on the job, program effectiveness, and problems of fraud and abuse. Other programs are being conducted and new ones are being planned, including one for supervisors.

As a result of financial and compliance audit work, $273 million in questioned costs and costs recommended for disallowance were identified in 1,102 reports issued on the Department's programs grants, and contracts. Audit resolution involved $121 million, out of $288 million in audit exceptions, that was disallowed in the 1,023 reports resolved. By the end of the fiscal year, 25 reports over 6 months old were precluded from resolution pending conclusion of investigations or settlement of other unique problems.

The OIG's labor racketeering investigations resulted in convictions of 123 individuals or corporations, and indictments of 98. During this year, the Federal Government won on a complaint it filed using, for the first time, the civil provisions of the Racketeer Influenced and Corrupt Organizations statute to rid a union of corruption. The complaint, based on an extensive investigation by OIG and the Federal Bureau of Investigation, documented the history of control through violence and racketeering of Teamsters Local 560 by Anthony Provenzano, now serving a life sentence, and his associates and relatives.

Fraud investigations resulted in 258 individuals being convicted. Indictments in fraud cases totaled 438. The OIG initiated 1,258 fraud investigations and closed 671.

The OIG complaint center, which handles complaints of fraud, waste, and abuse in the Department's programs nationwide, received 1,409 complaints that warranted audit, investigative, or program agency attention; 27 were referred to non-Department of Labor agencies. The majority of the complaints pertained to the biggest departmental agencies—the Employment and Training Administration and the Employment Standards Administration. The implementation of an on-line interactive computerized Complaint Tracking and Index System capable of providing information and instant referral of allegations among the OIG's offices nationwide further enhanced the OIG's computer technology.

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Employees' Compensation Appeals Board

The Employees' Compensation Appeals Board (ECAB) carried out its decision-making activities by closing 2,346 cases during the year. The Board has authority to make final decisions on appeals arising under the Federal Employees' Compensation Act involving work-connected injuries and diseases.

The Board began the 1984 fiscal year with 868 cases pending. During the year 2,199 new appeals were docketed and 2,346 cases were closed, leaving 721 pending cases at the end of the year. The number of appeals increased slightly (38 cases) while the number of closures increased substantially (532 cases). Carryover decreased from 868 at the beginning of fiscal year 1984 to 721 at the beginning of fiscal 1985, a reduction of 147 cases.

Of the 721 pending cases, 280 are ready for Board action. The balance are awaiting action by the parties, such as the filing of a memorandum by the Office of Workers' Compensation Programs to justify its determination or a reply by an appellant to the Office's memorandum.

The average time lapse between the docketing of an appeal and its disposition by the Board in fiscal 1984 was 4.1 months.

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Benefits Review Board

Fiscal year 1984 marked another record year for the Benefits Review Board. Dispositions were issued for 2,317 cases of which 1,862 were Black Lung and 455 Longshore cases. This is the highest level of production ever attained by the Board, surpassing by 76 percent the previous record of 1,319 dispositions issued in fiscal 1983. During the year the Board received 2,892 new appeals; of these 2,311 were Black Lung cases and 581 were Longshore. This represents a slight decline over the number of new appeals received in fiscal 1983. The Board ended the year with 6,621 appeals pending.

During September, Congress mandated the expansion of the Board to nine Members who are authorized to determine cases in panels of three. The expansion will be implemented during fiscal 1985 and will appreciably enhance the ability of the Board to deal with the large pending workload.

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Information Activities

New Reagan Administration programs to help workers still unemployed in a thriving economy were the focus of major public information initiatives during the 1984 fiscal year.

A wide range of informational techniques was utilized to promote public awareness of the Job Training Partnership Act (JTPA), which went into full effect October 1, 1983. At the outset, the Labor Department conducted support activities for launching this new law by President Reagan. During the year, many different informational activities were conducted to inform the public of differences between JTPA and its predecessor, the Comprehensive Employment and Training Act (CETA). A key aim was to build support among State and local governments, employers and other constituent groups who would be heavily involved in its implementation and whose cooperation would be essential for its success. Later, field information offices played a crucial role in producing and disseminating within their regions stories about the new law, based on accounts of unemployed workers who had been helped by it.

A wide range of informational activities was also employed to alert the public about the new Emergency Veterans' Job Training Act (EVJTA) and to let eligible employers and veterans know about its benefits. Again, regional information offices played a pivotal role, working closely with their field counterparts in the Veterans' Employment and Training Service (VETS) to increase public awareness. In the National Office, a series of public service announcements and public service advertisements was developed to supplement news releases issued to announce funding of programs and other developments under this law. Support was provided for an employer symposium on the law conducted by VETS and hosted by Secretary Donovan. Employers from across the Nation who attended then returned to their States to inform other businessmen and women how to utilize the law. Likewise, full informational support was provided for Hire-a-Vet month in June 1984, as well as for a later ceremony at which the Secretary presented awards to State Job Service employees who had contributed to the success of the month.

Although fiscal 1984 was a year of economic revival, workers in some industries continued to suffer high unemployment, and related public information activities were initiated to inform dislocated and long-term unemployed workers about special Labor Department programs designed to retrain them in new skills. As the Secretary and other top officials of the Department visited various affected areas to launch new training programs for dislocated or displaced workers, the Department's field information offices provided vital support and worked to obtain media coverage so that both workers and employers would know about these efforts.

Throughout the year, a wide variety of informational tactics was employed to inform the public about other ongoing activities of the Department. Hand-delivery of news releases in the Washington, D.C. area was ended except for major announcements, due to budget restrictions. But a system of making releases available to media through computers was initiated on a pilot basis. Its future depended on a positive response from news organizations. Events for which special informational efforts were conducted included: the Centennial of the Bureau of Labor Statistics, which was the subject of a videotape production to inform the public about the Bureau's many services; the Secretary's National Pension Forum to mark the 10th anniversary of the Employee Retirement Income Security Act (ERISA); Secretary Donovan's trip to Israel, and his visit to Bal Harbour, Florida, during the AFL-CIO Executive Council meeting.

Special emphasis was given efforts to inform the public about the President's proposed Youth Employment Opportunity Wage (YEOW), designed to spur employment of black and other teenagers during the summer months. A personal letter signed by the Secretary was mailed to more than 200 editorial page editors and writers. Bylined articles and letters were sent to daily newspapers across the country; responses were issued when erroneous statements were made in editorials, articles and columns, and an open letter to members of Congress from the Secretary was sent to major media outlets.

All these and many other activities were carried out within the framework of a National Information Plan, developed to make the most economical use of field and National Office resources in informing the public about the Department's activities. To further enhance the effectiveness of informational thrusts, a National Information Conference was held, with key officials of the Department addressing National Office and field information staffers.

Within the framework of the National Information Plan, both National and Field information staffs also continued their day-to-day activities of issuing key economic data, responding to inquiries and providing support to the Department's executive staff in keeping the public abreast of the Department's many actions.

Appendix Tables

Appropriations and Other Obligational Authority

Number of Employees on Labor Department Rolls As of October 1, 1984

Characteristics of Participants in Titles IIA and III of the Job Training Partnership Act During the Transition Period

Selected Employment Service Activities, by Region and State, Through Third Quarter, Fiscal Year 1984

Benefit Data Under State Unemployment Insurance Programs, by State for 12 Months Ending December 31, 1983

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Appropriations and Other Obligational Authority

	Fiscal year 1984 Amounts
Federal funds:	
Employment and Training Administration, Program Administration	82,739,000
Employment and Training Assistance	6,546,225,000
Community Service Employment for Older Americans	317,300,000
Federal Unemployment Benefits and Allowances	12,000,000
Grants to States for Unemployment Insurance and Employment Services	72,500,000
Advances to the Unemployment Trust Fund and Other Funds	7,109,000,000
Total, Employment and Training Administration	14,139,764,000
Labor Management Services Administration	62,136,000
Employment Standards Administration	188,483,000
Special Benefits	220,100,000
Occupational Safety and Health Administration	212,560,000
Mine Safety and Health Administration	151,397,000
Bureau of Labor Statistics	137,337,000
Departmental Management	95,559,000
Office of the Inspector General	38,000,000
Special Foreign Currency	67,000
Proprietary Receipts	322,823,864
Total, Federal funds	14,922,579,136
Trust funds:	
Unemployment Trust Fund (ETA)	28,100,000,000
Black Lung Disability Trust Fund (ESA)	858,483,000
Special Workers' Compensation (ESA)	50,000,000
Gifts and Bequests (ETA)	10,000
Total, Trust funds	29,008,493,000
Interfunds transactions	-10,899,265,243
Total, Department of Labor budget	33,031,806,893
Other funding:	
Funds appropriated to other agencies for programs administered by the Department of Labor:	
Department of Health and Human Services (Work Incentive Program)	270,760,000
Other Federal agencies (Federal Employees Compensation Act)	817,000,000
Total, Other funds	1,087,760,000
Grand Total, All funds	34,119,566,893

Number of Employees on Labor Department Rolls as of October 1, 1984

	Full-Time Permanent			Other		
	Total	D.C.	Field	Total	D.C.	Field
All agencies	17,586	6,338	11,248	939	294	645
ETA	1,658	723	935	37	17	20
LMSA	944	394	550	44	31	13
ESA	3,961	811	3,150	201	44	157
OSHA	2,214	420	1,794	33	11	22
MSHA	2,979	251	2,728	80	23	57
BLS	1,989	1,460	529	391	48	343
OSEC	450	158	292	13	10	3
SOL	740	440	300	44	35	9
ILAB	105	103	2	10	10	—
OASAM	1,076	628	448	45	26	19
OIG	527	152	375	5	3	2
Other	492	347	145	23	23	—
PBGC	451	451	—	13	13	—

Characteristics of Participants in Titles IIA and III of the Job Training Partnership Act During the Transition Period (October 1, 1983–June 30, 1984)

Characteristics	Percent distribution	
	Title IIA[1]	Title III[2]
U.S. total:		
Number	615,500	96,100
Percent	100	100
Male	50	68
Female	50	32
Age:		
Under 22	39	5
22-54	59	88
55 and over	2	7
Education:		
School dropout	24	20
Student	14	2
High school graduate	62	78
Ethnic group:		
White	54	70
Black	32	22
Hispanic	10	6
Other	4	3
Limited English-speaking ability	4	2
Handicapped	8	3
Unemployment compensation claimant	10	45
Economically disadvantaged	94	NA.
Receiving public assistance	41	NA.

NOTE. — Totals may not add to 100 percent due to rounding.

[1] SOURCE: JTPA Annual Status Report and Job Training Longitudinal Survey (JTLS).

[2] SOURCE: JTPA Annual Status Report.

NA. — Not available.

Selected Employment Service Activities, by Region and State, Through Third Quarter, Fiscal Year 1984

	New applications	Total counseling interviews	Tests administered	Placements in Nonagricultural industries	Placements in Agricultural industries
Total[1]	8,447,752	659,531	696,526	3,394,114	206,602
Region I (Boston)	341,262	29,840	9,108	133,177	2,107
Connecticut	81,948	8,060	2,648	22,024	363
Maine	39,450	322	461	15,139	278
Massachusetts	135,626	9,801	1,781	63,145	792
New Hampshire	29,414	3,657	2,221	9,857	92
Rhode Island	31,253	5,388	1,401	13,133	172
Vermont	23,571	2,612	596	9,879	410
Region II (New York)	745,257	102,118	50,624	517,510	8,286
New Jersey	234,781	19,134	2,740	32,471	444
New York	415,773	71,463	43,403	467,319	3,727
Puerto Rico	94,703	11,521	4,481	17,720	4,115
Region III (Philadelphia)	776,756	37,300	49,023	188,783	3,127
Delaware	19,628	1,017	1,195	3,617	161
Dist Columbia	46,224	7,261	5,715	15,347	60
Maryland	86,281	3,577	7,971	24,720	577
Pennsylvania	425,462	19,012	13,563	95,779	1,210
Virginia	141,211	1,378	16,777	36,495	1,075
West Virginia	57,950	5,055	3,802	12,825	44
Region IV (Atlanta)	1,501,337	171,511	257,067	654,697	63,720
Alabama	141,726	11,437	39,073	59,871	528
Florida	348,925	25,813	16,929	145,713	12,556
Georgia	175,894	38,947	17,407	78,372	6,476
Kentucky	115,095	18,206	19,209	50,732	441
Mississippi	155,690	23,217	19,472	60,136	564
North Carolina	270,365	33,352	86,616	104,268	30,022
South Carolina	134,355	13,308	45,538	91,567	11,834
Tennessee	159,287	7,231	12,823	64,038	1,299
Region V (Chicago)	1,758,963	98,651	85,020	344,942	15,515
Illinois	328,145	21,345	8,072	74,800	1,390
Indiana	266,878	6,452	16,712	46,113	1,035
Michigan	317,583	26,156	16,023	64,894	4,828
Minnesota	191,114	12,072	15,406	59,189	4,568
Ohio	445,030	15,539	16,843	60,408	1,676
Wisconsin	210,213	17,087	11,964	39,538	2,018
Region VI (Dallas)	1,175,395	74,643	108,958	555,626	48,064
Arkansas	118,557	3,731	9,431	63,286	1,653
Louisiana	155,203	5,177	9,953	59,473	404
New Mexico	75,134	5,175	2,628	27,979	1,429
Oklahoma	183,184	12,602	27,176	87,267	6,741
Texas	643,317	47,958	59,770	317,621	37,837
Region VII (Kansas City)	531,649	38,811	55,521	213,640	6,232
Iowa	144,499	9,251	12,902	65,193	1,731
Kansas	91,145	7,976	7,328	39,876	1,500
Missouri	239,506	15,687	27,972	80,454	1,105
Nebraska	56,499	5,897	7,319	28,117	1,896
Region VIII (Denver)	325,590	51,020	53,961	231,626	10,311
Colorado	94,002	9,283	1,533	53,097	2,676
Montana	55,805	9,860	8,978	36,670	1,874
North Dakota	30,524	4,741	7,556	24,138	1,020
South Dakota	38,701	5,579	9,896	31,194	915
Utah	76,229	12,419	20,203	65,277	2,080
Wyoming	30,329	9,138	5,795	21,250	946

Region IX (San Francisco)	936,872	39,422	12,602	420,703	30,849
Arizona	121,116	4,333	724	46,564	5,492
California	730,095	30,110	7,410	339,795	24,160
Hawaii	42,048	1,796	881	11,410	401
Nevada	43,613	3,182	3,587	22,934	796
Region X (Seattle)	354,671	16,215	14,642	133,410	18,391
Alaska	38,469	1,665	5,025	26,242	158
Idaho	55,206	1,986	3,101	23,273	2,860
Oregon	108,095	358	1,962	36,480	5,681
Washington	152,911	12,206	4,554	47,415	9,692

Note. — New applicants reflect data on individuals. The other columns are transaction data.

[1] Excluding the Virgin Islands and Guam.

Benefit Data Under State Unemployment Insurance Programs, by State for 12 Months Ending December 31, 1983

		Average weekly insured unemployed					Average weekly benefit amount		Duration: (in weeks) all beneficiaries			Claimant exhaustion benefits	
	Initial claims	Number	Percent of covered Employment	Total number of beneficiaries	Average weekly beneficiaries	Average weekly wage in covered employment	Amount	Percent average weekly wages	Potential	Actual	Actual for exhaustees	Number	Percent for all Beneficiaries
U.S. total	22,801,818	3,396,318	3.9	8,909,505	2,990,878	332.02	123.55	37.2	24.1	17.5	23.5	4,180,911	38.4
Alabama	428,181	54,211	4.5	175,082	45,836	290.44	82.48	28.4	23.4	13.6	22.3	71,512	33.6
Alaska	76,502	11,401	6.4	42,866	12,311	557.28	134.40	24.1	20.4	14.9	19.7	20,360	47.2
Arizona	184,947	31,065	3.1	72,736	24,622	316.73	102.29	32.3	24.5	17.6	23.1	39,078	40.8
Arkansas	236,538	31,571	4.6	88,918	24,803	271.48	95.76	35.3	22.6	14.5	21.9	35,770	32.5
California	3,134,335	467,140	4.8	1,176,054	422,731	363.12	107.49	29.6	23.9	18.7	23.5	563,389	40.8
Colorado	221,591	38,748	3.0	107,886	30,604	343.88	151.55	44.1	22.8	14.8	19.7	56,917	47.0
Connecticut	286,248	39,846	3.9	136,297	37,292	359.34	127.26	35.4	26.0	14.2	26.0	34,700	20.9
Delaware	57,241	6,644	2.6	25,410	6,482	347.37	95.57	27.5	25.9	13.3	25.9	5,791	19.9
Dist. of Columb.	41,806	11,860	3.3	25,581	11,226	405.43	147.39	36.4	23.8	22.8	27.9	15,373	52.5
Florida	465,471	76,703	2.1	223,995	60,880	294.76	97.85	33.2	20.6	14.1	19.2	100,141	37.1
Georgia	435,271	51,529	2.5	212,186	48,252	302.29	98.02	32.4	20.1	11.8	18.6	87,624	33.0
Hawaii	75,449	12,954	3.4	34,184	10,472	295.80	127.80	43.2	26.0	15.9	26.0	11,423	31.5
Idaho	118,134	16,298	5.6	46,926	12,948	288.49	117.84	40.8	18.8	14.3	17.3	26,279	48.0
Illinois	1,046,031	210,353	4.9	450,205	187,116	357.12	151.29	42.4	26.0	21.6	25.5	206,274	51.1
Indiana	537,406	71,484	3.7	198,917	61,015	325.68	93.05	28.6	20.8	16.0	20.6	109,643	40.3
Iowa	224,278	36,782	3.7	117,681	34,264	289.89	141.21	48.7	22.2	15.1	21.7	55,158	40.1
Kansas	192,197	27,062	3.1	77,183	24,798	293.37	131.33	44.8	22.5	16.7	22.0	45,080	47.2
Kentucky	361,025	52,352	4.9	138,308	49,374	304.60	106.95	35.1	26.0	18.6	25.7	63,508	36.7
Louisiana	449,960	80,658	5.3	192,168	77,693	330.97	158.24	47.8	24.2	21.0	24.9	121,170	55.3

Maine	159,007	17,480	4.5	37,970	13,384	268.71	107.94	40.2	15.9	18.3	15.3	25,536	61.3
Maryland	309,054	54,045	3.5	133,356	42,385	317.00	123.10	38.8	26.0	16.6	26.0	53,663	33.6
Massachusetts	501,195	81,718	3.2	228,623	73,856	330.66	122.57	37.1	26.7	17.4	25.7	83,409	30.9
Michigan	1,092,786	143,909	4.8	374,285	127,172	377.57	150.37	39.8	23.6	17.7	21.8	196,357	37.2
Minnesota	292,151	51,320	3.2	143,374	46,775	333.48	140.77	42.2	22.3	17.0	21.0	78,598	44.7
Mississippi	245,510	37,520	5.1	95,161	29,843	263.17	87.76	33.3	23.5	16.3	23.1	42,469	36.7
Missouri	530,036	64,765	3.6	182,975	50,535	318.22	93.24	29.3	21.6	14.4	20.1	79,304	35.8
Montana	77,294	11,804	4.8	37,662	10,111	286.43	128.87	45.0	20.8	14.0	19.1	17,423	45.8
Nebraska	92,192	15,348	2.7	47,728	13,267	279.08	96.00	34.4	22.0	14.5	19.3	21,470	40.4
Nevada	97,737	15,591	4.0	46,057	14,908	325.99	121.54	37.3	23.0	16.9	25.9	21,428	38.4
New Hampshire	68,175	8,381	2.2	45,785	7,717	292.61	99.22	33.9	26.0	9.8	26.0	4,241	8.3
New Jersey	668,373	115,056	3.9	342,641	110,435	357.96	125.54	35.1	23.0	16.8	21.7	172,426	43.9
New Mexico	91,519	17,095	4.0	39,136	13,850	298.77	111.83	37.4	25.8	18.4	25.5	18,719	44.6
New York	1,502,603	246,175	3.5	534,867	225,436	376.83	105.20	27.9	26.0	21.9	26.0	232,276	42.8
North Carolina	836,202	69,196	3.1	248,689	58,866	280.87	107.10	38.1	23.5	12.3	22.1	77,243	22.7
North Dakota	55,517	8,140	3.7	25,969	7,848	285.67	137.39	48.2	21.0	15.7	19.1	12,892	43.8
Ohio	1,104,111	166,378	4.3	396,848	142,345	341.66	142.24	41.6	25.6	18.7	25.4	208,389	38.5
Oklahoma	218,179	34,041	3.0	106,689	30,720	325.32	139.00	42.8	18.0	15.0	16.3	72,739	51.1
Oregon	376,463	50,198	5.6	130,211	42,688	318.83	122.19	38.3	25.6	17.0	25.0	53,017	35.2
Pennsylvania	1,717,484	258,989	6.0	580,411	236,585	326.13	150.74	46.2	29.6	20.7	29.5	256,445	35.6
Puerto Rico	324,973	47,604	7.0	35,611	20,731	187.91	63.58	33.8	20.0	17.5	20.0	18,937	43.8
Rhode Island	143,952	17,640	4.7	52,968	15,731	291.28	111.83	38.4	22.5	15.4	20.8	19,757	31.9
South Carolina	465,665	40,113	3.6	130,771	33,027	276.85	93.35	33.7	24.0	13.1	22.9	48,717	26.9
South Dakota	27,860	3,649	1.8	9,689	2,636	246.73	115.99	47.0	24.7	14.4	24.3	2,541	19.1
Tennessee	542,453	61,195	3.8	174,953	54,206	252.40	87.47	29.9	24.1	16.1	22.1	58,893	25.7
Texas	871,897	144,646	2.4	412,794	133,432	345.63	138.09	40.0	21.2	16.8	21.1	228,847	45.8
Utah	113,904	19,944	4.0	49,497	15,338	310.11	131.68	42.5	21.0	16.1	21.0	25,700	41.4
Vermont	54,512	8,184	4.3	23,865	7,224	278.38	109.84	39.5	26.0	15.7	26.0	6,090	21.5
Virginia	371,001	33,746	1.8	147,794	31,162	302.89	111.05	36.7	20.9	11.0	20.1	47,909	26.0
Virgin Islands	6,976	1,664	4.7	4,340	1,581	263.82	99.98	37.9	26.0	18.9	26.0	1,949	43.5
Washington	524,807	84,055	5.7	200,606	72,714	341.63	138.26	40.5	27.2	18.8	25.7	85,202	37.2
West Virginia	151,715	43,205	7.6	93,417	38,914	321.45	139.41	43.4	28.0	21.7	27.8	50,058	41.8
Wisconsin	547,529	85,337	4.7	227,530	73,857	313.18	141.30	45.1	27.1	16.9	28.7	74,293	27.2
Wyoming	46,375	9,416	4.6	28,600	9,600	340.36	139.28	40.9	11.4	17.5	7.4	14,562	41.2

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